

THE ENGAGEMENT OF PHILANTHROPIC FOUNDATIONS IN
CANADIAN PUBLIC POLICY

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ABSTRACT

This dissertation elucidates the policy roles of foundations in Canadian public policy by comparing three case studies at the federal and inter-provincial levels, and across three policy domains, i.e., in fiscal, post-secondary education, and health-research policy. The research method is a comparative, qualitative review of these recent cases informed by semi-structured interviews of over 40 people conducted over 36 months, and document analysis.

The three case studies are explored in this research span a period of approximately 30 years, from 1987-2016. The first case considered concerns a tax incentive for donations of capital to charities that was piloted by the federal Liberal government in 1997. Private philanthropic foundations were excluded as qualified recipients for this tax exemption until 2007. Consideration for further extension to the capital gains tax exemption were still underway in 2016 based on the ideas of the original policy entrepreneurs noted in this case. Second, between 1987 and 1998, Crown foundations for provincial universities, including the University of Saskatchewan (U of S), were established across nine provinces in order to take advantage of unique tax structures for this organizational type. Third, in 2006 a partnership between the Bill and Melinda Gates Foundation (the Gates Foundation) in support of the Canadian HIV Vaccine Initiative (CHVI) was formalized in a memorandum of understanding and publicized at the 16th International AIDS Conference in Toronto. The partnership concluded in 2016, but did not necessarily meet the ambitious objectives that were originally set out.

Each of these cases establishes that foundation and third sector policy entrepreneurs use collaborative strategies to increase their policy influence. These research findings indicate that foundations are also increasingly active in Canadian public policy. Across each case, foundations' roles varied at different stages of the policy cycles. Foundations' access to government processes was consistently higher at the problem-definition and agenda-setting stages of the cycle. Also in each case, foundations' impacts on Canadian public policy waned at the policy implementation and evaluation stages. In the Canadian context, foundations' varying degrees of influence across stages of policy cycles can be attributed to the particular character of the Canadian public and third sectors. Canada's parliamentary system, the closed fiscal policy regime, and the fragmented nature of oversight and regulation of charities constrain outsider access at the latter stages of policy cycles, thus impeding successful

implementation of foundations' policy agendas. That said, as a result of their entrepreneurialism, foundations' engagement in Canadian public policy is increasing.

The theoretical starting point for this dissertation is John W. Kingdon's (1995) concept of policy entrepreneurship, although his original conceptualization is expanded to cover the entire policy cycle, rather than just agenda setting. The policy-cycles framework is used to organize the case study materials into straightforward chronological narratives. The main concepts of policy entrepreneurship and the policy-cycles framework are also supplemented with institutionalism. Institutionalism helps to account for the potential differences reported in the existing literature on United States (US) and Canadian think tanks and foundations.

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LIST OF ABBREVIATIONS

AFP	Association of Fundraising Professionals
ATIP	Access to Information and Privacy
BC	British Columbia
CAGP	Canadian Association of Gift Planners
CASE	Canadian Council for the Advancement and Support of Education
CFC	Community Foundations Canada
CHVI	Canadian HIV Vaccine Initiative (commonly known and pronounced as “chive”)
CHVE	Canadian HIV Vaccine Enterprise
CIDA	Canadian International Development Agency
CRA	Canada Revenue Agency
FOI	Freedom of Information
GHVI	Global HIV Vaccine Initiative
ICID	International Centre for Infectious Disease
IUPUI	Indiana University–Purdue University, Indianapolis
IGO	Intergovernmental Organization
MOU	Memorandum of Understanding
NGO	Non-Government Organization
NPO	Non-Profit Organization
NPM	New Public Management
PFC	Philanthropic Foundations Canada
PHAC	Public Health Agency of Canada, Government of Canada
PVAGSR	Panel on Voluntary and Government Sector Relations
PSE	Post-Secondary Education
UBC	University of British Columbia
U of S	University of Saskatchewan
VSA	Accord between the Government of Canada and the Voluntary Sector (2001)
VSI	Voluntary Sector Initiative (1999-2005) – led by the Government of Canada
VSR	Voluntary Sector Roundtable (1995) – led by the Third Sector

1 INTRODUCTION

Do philanthropic foundations engage in policy making in Canada, and if so, how and why, and why should we care? Foundations in the third sector hold and allocate philanthropic funds for public purposes and charitable causes. They do so not only by funding charities, but also by engaging directly with governments to influence public policy. Philanthropic foundations are charities, and they generally hold significant endowments. Public foundations operate at arm's length from their donors; private foundations do not. There is a debate about whether private foundations represent the narrow interests of the economic elite or a broader range of views. In a liberal democracy, foundations' limited size and significant resources, alongside their perceived influence, lack of transparency, and questionable accountability, result in their contested legitimacy. In contrast, foundations contend that they promote innovative ideas, minority interests, and/or pluralism. Yet they also benefit from (or are even the product of) increasing income disparities in Canada and internationally. In their efforts to pursue their policy preferences, it is not surprising that foundations seek to acquire value and stability as organizations in order to legitimize their policy activities. As they become more organized, foundations can be powerful social forces. Foundations, as policy entrepreneurs, increasingly build policy networks in order to effectively engage in Canadian public policy.

As governments continue to downsize and download social services in the wake of “new public management” (NPM), too little is known about the potential influence of third-sector organizations, especially philanthropic foundations for Canadian public policy. This lack of information combined with preconceived notions and sometimes ingrained negative attitudes toward the roles of foundations in the democratic state trickle down from other jurisdictions and from historical conflicts between elites and the masses in Canada (Reich 2016; Roelofs 2003; Salamon 1987, 1995; Salamon and Anheier 1997; Laforest 2013; Brock 2010). The result has tended toward system-wide biases against foundations. Hydemann and Toepler (2006) highlight the contested legitimacy of foundations in the United States (US) and the United Kingdom (UK) in a critique from a foundation executive:

Foundations are dandy things, but the truth is few institutions are as complacent, and potentially unaccountable to the real world as private foundations. When I was a public official, my dealings with philanthropy often left me with the question—who do they think they are? (Quoting Douglas W.

Nelson, President of the Annie E. Casey Foundation in Hydemann and Toepler 2006, 3).

The overarching purpose of this study is to shed light on the actual roles of foundations in Canadian public policy in a way that does not perpetuate oversimplification and polarity in the assessment of foundations' roles as being either positive or negative. Three qualitative case studies are examined in depth, using an appropriate conceptual framework, to glean more insight into their policy roles. Taken together, these cases cover a 30-year period of foundations' policy engagement in Canada. The entrepreneurial strategies and organizational pathways of foundations, as well as the opportunities and constraints they face in attempting to influence public policy, are considered.

As of 2018, there were approximately 76,000 charities in Canada. In total, foundations comprise about 12% of those organizations. As of 2016, out of approximately 10,800 foundations in Canada, roughly half were private foundations and half were public foundations (Philanthropic Foundations Canada [PFC] 2018). Foundations are the fastest growing type of charitable organizations in the country – from 4,800 foundations in 2008 to 10,800 foundations in 2016. In addition, over a period of eight years, from 2008-2016, foundations' assets more than doubled – from about \$34.1 billion to \$73.0 billion. During that time, foundation grants increased by \$1.1 billion – from \$3.6 billion to \$5.7 billion (PFC 2018). In 2016, foundation giving across Canada amounted to nearly \$5.7 billion: private foundation giving was nearly \$2 billion, and public foundation giving was \$3.7 billion (PFC 2017). At the same time, the majority of Canadian foundations have modest operations, with most of the assets concentrated in a small number of foundations (Kryvoruchko 2013). The number of foundations also varies by province and territory; while there were only 13 in the Northwest Territories in 2016, there were over 4,000 in Ontario. In Saskatchewan, there were nearly 400 foundations, only 1% of all Canadian foundations (PFC 2016a). Given the landscape of foundations in Canada, and as this research reveals, governments are increasingly interested in their proliferation, and in partnering with and regulating them.

When foundations make investment decisions, they do more than distribute funds to charities; they also make significant contributions to policy. In Canada, welfare state cutbacks, a challenging fiscal situation, and changes in the social-policy environment have increased pressure on the third sector (Laforest 2009, 2013; Evans and Shields 2005). Combined with

increasing tax incentives for charitable donations, as well as rising costs in the key areas of health, education, and social services (which are under the jurisdiction of the provinces), there is an opportunity for foundations to engage in public policy more than they have in the past (Abelson 2016; Pearson 2010; Lyons and Pearson 2017; PFC 2017a; Anheier and Daly 2007; Phillips and Rathgeb Smith 2011). But is this involvement appropriate and legitimate?

To get at this question, more nuanced understandings of the interactions and relationships between foundations and the Canadian state are required; these findings could lead to better policy outcomes. Phillips aptly summarizes the discourse about the third sector and the need for improvements in Canada:

Accounts of funding for the charitable and nonprofit sector are generally presented in one of two ways. The first is the familiar story of cutbacks. Beginning in the 1990s, propelled by fiscal restraint and by neoliberalism that favoured smaller government, market-based instruments, stricter accountability... The second account focuses on the potential of venture philanthropy, entrepreneurship, and new forms of social finance... [a] much more detailed and nuanced analysis of the history and current state of government funding policies and practices [is required]. (Phillips 2016, 3)

Foundations participate in the development of these types of new strategies for funding charities and non-profits. New research and information can foster policy learning and policy transfer and can better direct resources to those areas where they are most needed or where there is the most potential for foundations to have a positive impact. Laforest also points out, “Governments are looking for new institutional solutions that will enable them to do more with less... [and] the nonprofit sector is a critical part of their ability to develop economic strength and social wellbeing within communities” (2013, 1). Foundations may be able to provide added value to Canadian public policy, perhaps to a greater extent than decision makers, state officials, and the media currently presume. Foundations may also welcome the opportunity to employ the successful strategies and lessons, which are documented in research studies such as this.

This dissertation examines the roles of philanthropic foundations in Canadian public policy. These roles are explored using a qualitative analysis that focuses on three cases in three policy domains (see Glossary): (1) foundations’ engagement in the development of tax reforms

to encourage giving; (2) the establishment of university Crown foundations (see Glossary) across the country, including the University of Saskatchewan (U of S) Crown Foundation; and (3) the Bill and Melinda Gates Foundation's (Gates Foundation) support of HIV/AIDS research in Canada. I used a cross-unit case study approach that draws on over 40 interviews that took place over about 36 months. These cases were selected because they cross several policy domains, jurisdictions, timeframes, and organizational types. There was also evidence of varying levels of foundations' engagement in each case (Bird 2015; Bromley 1997, 1993; Canada 2006, 2010; U of S 1994).

In the first case, private foundations appeared to have had only an absentee role, as they were explicitly excluded from the legislation for the tax incentive. This case of the capital gains tax exemption would potentially contrast with the other two cases, which were selected precisely because foundations appeared to have been directly involved in the policy process. The second case saw Crown foundations (see Glossary) being created across the country in order to spur giving to universities. The third case involved a memorandum of understanding (MOU) between the government of Canada and the Gates Foundation to fund increased vaccine manufacturing capacity for HIV/AIDS.

The theoretical starting point of this dissertation is John W. Kingdon's concept of "policy entrepreneur." Policy entrepreneurs use their time, energy, and resources to access government policy agendas (1995; and see Glossary). Kingdon is widely cited in the literature on foundations and think tanks in the US, and his framework has been successfully applied in select case studies of public policy and the non-profit sector in Canada. The notion of policy entrepreneur provides insight into the internal organizational characteristics, developments, and strategies of non-government stakeholders for engaging in public policy (Lindquist 1989, 2006; Elson 2009a, 2016; Mintrom 2013; Mintrom and Norman 2009; Abelson 2016; Badelt 1997; Petridou, Aflaki, and Miles 2015; Benz 2009; Stone 2000, 2007; Roberts and King 1991; Rich 2005, 2007; Charles 2011). Only one article, by Elson and Hall, S. (2016), has applied this framework to the study of foundations in Canada. Howlett has also used the concept of policy entrepreneur to examine the role of stakeholder engagement across the whole policy cycle, not just at the agenda-setting stage in Canada (1997, 1998). Throughout my dissertation, the concept of policy entrepreneur is used across the policy-cycles framework, and is

complemented by political institutionalism in order to consider unique attributes of the Canadian policy environment and foundations' engagement therein.

Evidence of foundations' participation in Canadian public policy is considered across three cases (see Glossary). The fiscal policy case (Chapter 5) highlights a new umbrella organization, Philanthropic Foundations Canada (PFC), which was created in 1999 to organize private foundations and lobby the government to include them as qualified recipients of capital gains tax exemptions (see Glossary). In the post-secondary education (PSE) policy case (Chapter 6), Crown foundations were established at major universities across the country between 1987 and 1998 to increase major giving to the sector. In both of these cases, foundations sought to change government policies or structures related to foundations or to enhance charitable tax incentives and thereby entice major giving (see Glossary) in Canada. With respect to health-research policy (Chapter 7), the Gates Foundation and the Canadian government entered into a formal partnership in 2006. The partners renewed the memorandum of understanding (MOU) in 2010. The agendas were driven by the scientific policy community (see Glossary), represented by the Global HIV Vaccine Enterprise (GHVE), and implemented through this partnership and the Canadian HIV Vaccine Initiative (CHVI).

1.1 Research Problem

The most recent data available indicates that the number of foundations in Canada grew between 2005 and 2016 (PFC 2016). Foundations, along with other third-sector actors, are increasingly engaged in public policy-making at the local, provincial, and national levels (Foundation Centre 2010; Imagine Canada and PFC 2014). Foundations have influence, but to what degree and to what end? Studies of American and European foundations indicate (and some caution) that foundations use private tax-exempt resources to advocate for, and even direct, government priorities and policies (Prewitt 2006, 370). Given that foundations' asset bases are built primarily on the wealth of private or corporate entrepreneurs who have benefitted from their particular contexts, and that their interests do not represent those of the electorate, is their role in a democratic state's policy making appropriate and legitimate?

The cases shed light on the reach of foundations and the extent to which they impact public policies in Canada. With this investigation, I aim to inform researchers; grantees (charitable and non-profit organizations [NPO]; see Glossary); policy makers; elected officials;

and foundation staff, boards, and executives about foundations' growing involvement in public policy. This type of research on foundations in Canada is important for three reasons: national and institutional contexts directly affect foundations; public policy is affected by power, which foundations wield while representing particular interests; and both those policies that foundations pursue and the ones by which they are regulated can make a difference for the public good.

As the comparative research on foundations in the US, Canada, and UK has shown, national contexts shape the roles of third-sector organizations in policy making (Abelson 2005; Elson 2010a, 2011; Phillips and Smith 2011; Stone, Denham, and Garnett 1998; Toepler 2006; see Glossary). Differences between parliamentary and presidential democracies are significant in terms of the actual and potential roles that third-sector organizations can have in policy making (Abelson 2005; Lindquist 1998). With respect to foundations, however, current policy practice in Canada tends to lean heavily on policy ideas generated in the US (Anheier and Daly 2006; Lipset 1990) while keeping an eye on the UK, but seldom does it go so far as to formalize partnerships between the state and the third sector in truly substantive ways.

Foundations have power in several forms: money, connections, and the attention of the public, governments, investors, and the media. The Gates Foundation, for example, obviously has a good deal of influence that is leveraged by these factors (Klausner et al. 2003; McCoy, Kembhavi, Patel, and Luintel 2009; McCoy and McGoey 2011; Rushton and Williams 2011). While at times contested, the lure and tacit legitimacy of such significant players in global health policy can more easily garner support for a government's policy agenda than that of smaller foundations, as the selected cases illustrate.

At times, however, the most effective form of influence is that which goes unnoticed (Abelson 2002, 7, referring to a quote by Judith Maxwell, the founder of the Canadian Policy Research Network). We need to have a better understanding of the actual and potential extent of foundations' influence on public policy in Canada beyond their public personas. Their roles cannot only be extrapolated from studies of the policy roles of foundations in other countries like the US or the UK. We need more data to inform Canada-specific understandings of foundations in order to better inform the legislation and regulations regarding foundations. The results of this type of research should be disseminated to the public, politicians, and the media

to inform their perceptions of foundations' legitimacy, and to the third sector and the public sector to better utilize and leverage the resources of foundations.

Research on foundations in Canada can make a difference by providing more nuanced, empirically based depictions of their policy roles thereby fostering improved public policy, adding diverse perspectives and new ideas to the discourse. This research can assist in evaluating when and where the assistance of foundations in policy making is most effective, and where it is most desirable (or not); this can in turn inform appropriate amendments to tax incentives, charitable regulations, and public partnerships respecting foundations. This research offers insights into foundations' strategies as actors in the policy process; governments' receptivity to foundations' policy ideas; the institutional contexts that shape foundations' policy engagement; and the extent of their influence at different points in the policy cycle. Research on Canadian foundations is important because governments and foundations invest significant resources (time, energy, reputation, money, etc.) in pursuit of social and fiscal policy ideas or in formulating policies that affect foundations. Not only can case-study research inform governmental approaches to working with foundations, but it can also inform foundations' strategies for working more effectively and efficiently with governments.

While this dissertation cannot completely address all of these opportunities for improvement, it can, with respect to the three cases under consideration, offer insights into foundations' strategies as actors in the policy process; governments' receptivity to foundations' policy ideas; the institutional contexts that shape foundations' policy engagement; and the extent of their influence at different points in the policy cycle. The discussion of the findings in the last chapter of this dissertation compares and contrasts foundations' public policy participation between the cases, and foundations' strengths and weaknesses as actors across the selected policy domains and jurisdictions.

There is a plethora of case studies of foundations in the US, especially of the major grant-making foundations (see Glossary) like the Rockefeller, Ford, Carnegie, and Russel Sage foundations (e.g., Berman 1983; Fleishman 2007; Lagemann 1985, 1999; Rushton and Williams 2011; Wormser 1958). By comparison, there are far fewer academic studies of foundations in Canada. Several authors note that:

Foundations' operations are made strategic by [their] links to understanding of the public policies that inform, influence, and perhaps even decide the

outcomes and effect of grantmaking. The independence of the foundation form may have little or no bearing on its ability to bring about social and policy change without the strategic understanding of the environment in which foundations operate (Breiteneicher and Marble in Anheier and Daly 2007, 203-4).

Where studies of foundations have been conducted in Canada, they have considered the collaborative strategies of foundations (Pearson 2010), the growth of the sector (Kryvoruchko 2013a), and regulation (Bromley 1997; Phillips 2010; Brock 2008; Elson 2011; Kryvoruchko 2013), or they are noted within studies of think tanks (Lindquist 2004; Abelson 2005). None of them are comparative, qualitative case studies.

I found two Canada-specific case studies concerning foundations. First, Foster, Meinhard, Berger, and Wright (2005) present a study of strategic philanthropy, but not of foundations *per se*; not surprisingly, they focus on the “big three” US foundations (the Carnegie Foundation, the Rockefeller Foundation, and the Ford Foundation) operating in Canada (Arnové 1980; Arnove and Pinede 2007). Second, Brison’s (2005) research is on the role of the Rockefeller and Carnegie Foundations in the development of Canadian culture, through funding of the arts and letters in the early 20th century, a period before the federal government provided this kind of support through Social Sciences and Humanities Research Council of Canada (SSHRC) and Natural Sciences and Engineering Research Council of Canada (NSERC). Given the limited scholarly research on the policy roles of foundations in Canada, the present study is a valuable contribution to the literature. The findings of this study will further add to the public policy and third sector literatures by providing thick descriptive accounts of foundations’ policy-making roles in Canada in these three cases.

1.2 Research Questions

From a public policy perspective, Kingdon’s (1984, 1995, 2003) concept of policy entrepreneurs is used to frame an understanding of foundations’ specific roles in policy making (alternative definitions of entrepreneurship are explored in Chapter 3 and listed in the Glossary). The theoretical framework presented in this dissertation builds on this concept; it assesses the roles of these actors in the policy-making process. By employing the policy-cycle approach and institutional perspectives to this research, I will address some of the limitations of

the multiple streams framework (MSF) which would otherwise overshadow the usefulness of the concept of policy entrepreneur for these purposes. Using institutional perspectives also underscore the differences between the roles of foundations in Canada, the US and, to a lesser extent, the UK. The following six research questions guide this dissertation:

- 1) Who are foundations as policy actors in Canada?
- 2) Why do foundations engage in policy making in these cases? What are their motivations as compared to politicians', policy makers', or the public's perceptions of their motivations?
- 3) What resources do they have at their disposal, what were their strategies, and what was the extent of the influence of foundations beyond investing money in policy-making efforts? Does it vary by policy domain?
- 4) When (i.e., at what stage of the policy cycle) are foundations most involved or effective in shaping policy?
- 5) How receptive are governments to the influence, ideas, and agendas emerging from the third sector, brought forward by, for, or with foundations?
- 6) What are the barriers/enablers of foundations' participation in these policy processes?

1.3 Overview of the Case Studies

To overcome the problems with generalization inherent in case study research, and to understand similarities and differences across policy areas and between organizations, a comparative, multiple case-study approach is appropriate (Yin 2009). This approach is in keeping with case selection methods for the study of think tanks and foundations (Abelson 2002; Fleishman 2007; Lindquist 1989; Rich 2005). The rationale for having chosen these cases is that foundations' engagement in policy discussions varies depending upon geographical scope, political context, time, and the nature of the specific policy issue under consideration (Anheier and Daly 2006; Salamon and Anheier 1997; Stone 2007). Therefore, comparing policy domains at the federal level to those at the provincial level, and comparing fiscal policy to social policy is valuable.

This research considers roles of the following types of foundations associated with the selected case studies. The first is an umbrella organization: Philanthropic Foundations Canada (PFC). The PFC is a private foundation that today represents the public-policy interests of

foundations with the government of Canada; when it was established in 1999, it represented only the interests of private foundations on the very narrow policy interest of the capital-gains tax exemption for the donation of publicly listed securities. The second type is a group: “Crown foundations”; these were established parallel to some post-secondary institutions between 1987 and 1998. In particular, I will focus on the University of Saskatchewan’s Crown foundation, with which I am most familiar. The third type is a private foundation based in the US: the Gates Foundation. The Gates Foundation is also the largest foundation in the world, which affords it unique international reach and influence. The Gates Foundation partnered with the Canadian government to spearhead the fight against the HIV/AIDS epidemic through vaccine development from the early 2000s to about 2014.

Each of these cases was selected because there were indications early in the research process that they might provide insight into the public policy roles of philanthropic foundations in Canada (beyond grant-making). The cases were identified from media scans, searches of government websites, publicly available committee documentation, and Hansard. Each case provides unique insight into the evolution of foundations’ roles across the policy cycle, from agenda-setting to implementation. First, the capital gains tax exemption case is important because the very policies underpinning a private foundation’s ability to shape social policy were in question. Second, the Crown foundations case shaped the fundraising strategies of, and opportunities for, universities across the country (although only for a short time). Third, the Gates Foundation case marks a point in time when the “gloss” of private-foundation support for world health epidemics had not yet rubbed off (Klausner et al. 2003; Rushton and Williams 2011; Ulbert 2011).

1.4 Fiscal Policy: The Capital Gains Tax Exemption (1997–2017)

In 1997, the federal government authorized a pilot program for the exemption of capital gains tax for the donation of publicly listed securities. The measure was intended to incentivize the donation of major capital assets to charities (see Glossary) in Canada. The policy was inspired by the US, where similar legislation had been in place for private foundations since at least 1984 on term bases and was made permanent in 1994. In 1998, the exemption for qualifying publicly listed securities was amended to 100%. This idea provided evidence of policy entrepreneurship in the third sector, with Canadian legislation lagging behind US counterparts

by about a decade (Arnsberger, Ludlum, Riley, and Stanton 2008). Some authors contend that this type of policy, aimed at institutional change around the regulation of the sector itself, is the only “real” kind of policy entrepreneurship – that which affects one’s own operations or institutional context (Dacin, Dacin, and Matear 2010, 50; and Quinn, Tompkins-Stange, and Meyerson 2012, 952 refer to this as institutional entrepreneurship; also see Glossary).

However, for a variety of reasons (which I explore in Chapter 5), private philanthropic foundations were excluded from the list of qualified recipients of such donations when the legislation was introduced in 1997. (It is possible that this exception can be traced to the US roots of the donation incentive and to a similar exclusion in the US legislation that was resolved in 1994.) This meant that gifts of capital assets to private foundations were still taxable. For private foundations in Canada, this essentially eliminated the prospect of receiving any such gifts. Foundations, and particularly grant-making private foundations, are asset-based organizations by definition (Anheier and Daly 2007), so to eliminate this potential funding base by providing an advantage to other types of charities was effectively a *coup de grâce*. In response, a group of Canadian foundations established Philanthropic Foundations Canada (PFC) to ensure that their fiscal policy objectives were considered in the federal government’s policy. This is a case of foundations’ agenda-setting and policy development in the third sector.

1.5 PSE Policy: The Establishment of University Crown Foundations (1987–1998)

Crown foundations for Canadian universities were established during the late 1980s and early 1990s, starting at the University of British Columbia (UBC). The purpose of establishing these parallel, public foundations for universities was to take advantage of tax incentives only available in connection with donations to the Crown. In the late 1980s, following the pan-Canadian trend that began in British Columbia, key policy actors at the University of Saskatchewan (U of S) lobbied the provincial government to establish a Crown foundation. The advantage would be that there were no limits to charitable tax deductions on lifetime earnings. In 1994, the University of Saskatchewan Foundation Act established the U of S Foundation as a Crown corporation of the province of Saskatchewan (Saskatchewan 1994). The purpose of the foundation was to raise, hold, and distribute funds to support the operations of the U of S. By 1997, however, the government of Canada had levelled donation incentives for Crown and other charitable foundations (see Glossary) through a policy change in the

Income Tax Act (*Income Tax Act* 1997). This meant that donations of lifetime earnings to any type of charitable organization (not just Crowns), would be subject to the new maximum threshold of 75% allowed as tax-exempt contributions on lifetime earnings. Following these federal legislative changes in the *Income Tax Act*, in 1998, the assets of the U of S Crown Foundation were transferred from the Crown foundation to a parallel public foundation (see Glossary) of the U of S (Saskatchewan 1957).

This case provides an example of the development of the third sector in Canada during the 1990s that resulted from efforts to both increase the philanthropic resources available to universities, and maximize tax advantages for donors. While this is a historic example, it was part of an important policy trend, and it is relevant to the evolution of foundations and the third sector in Canada. The proliferation of university Crown foundations across the country affected the distribution of wealth across types of charities, causes, and geographies.

1.6 Health-Research Policy: The Gates Foundation and the CHVI (2004–2016)

The Canadian HIV Vaccine Initiative (CHVI) was led in partnership with the Gates Foundation and the Global HIV Vaccine Initiative (GHVE) before it coalesced under the Gates Foundation and the government of Canada's partnership in 2006. This case of policy-making between the largest private foundation in the world and the government of Canada is a clear example of a private foundation's engagement in public policy where the foundation (or other individuals working in or with the foundation) drove the policy direction. The original plan was to construct a facility to conduct research in a field that had been identified as a priority by the Canadian government after it signed on to the CHVI. Two memoranda of understanding (MOUs) were signed in 2006 and 2010. However, the policy approach changed between the signing of the first and the second agreements, i.e., upon implementation. The second MOU was up for renewal in 2014, but there is no indication that it was signed. The funding support ended in 2016 and a final report was publicly released in 2017.

As described in the 2006 MOU, the funding from the Gates Foundation and the government of Canada was to be directed toward the construction of a vaccine-development facility. The partnership was valued at \$138 million. The Gates Foundation donated \$28 million and the federal government contributed \$111 million (Canada 2016; 2017). In 2011, however, the partnership was restructured with a focus on funding the primary research

required to develop an HIV vaccine. When the capital project was cancelled, it caused considerable consternation amongst the applicants and proponents of the project, as well as speculation about the rationale and motivations behind the decision (Government of Canada 2011). Although it is quite unique, this case provides evidence of a large private philanthropic foundation's influence on policy making at the federal level. The case is important because it shows the extent of the influence that a private foundation can have on a public policy agenda and, in fact, on decision making.

1.7 Value and Significance

Foundations play a role in forming public policy (outside of simply providing funding) by contributing to social policy discourse, policy ideas, and policy solutions. Only since the 1990s has serious consideration been given to the involvement of organizations such as think tanks and foundations in policy processes in Canada (see, for instance, Abelson 2002; Rich 2004; Stone 2000a). Three decades later, much of the literature still tends to focus, first, on the US and, second, on the organizational level rather than the institutional level of analysis. Much of the existing literature is on foundations' internal organizational strategies and effectiveness in soliciting donations or allocating grants to charitable organizations. Moreover, though other studies consider alternative actors such as non-profits in public policy, these have tended to focus (for professional purposes) on the more popular issues of social innovation and investment, rather than on public policy.

1.8 Plan of the Dissertation

The dissertation is organized as follows. Chapter 2 provides a review of the literature. Chapter 3 presents the conceptual framework. Chapter 4 outlines the research methodology. Chapter 5 examines foundations' involvement in the policy process regarding the capital gains tax exemption for the donation of publicly listed securities. Chapter 6 explores foundations' roles in the establishment of university Crown foundations across Canada. Chapter 7 presents the case of the Gates Foundation and the government of Canada partnership for the CHVI vaccine development facility. The findings are discussed in Chapter 8, as are the conclusions and limitations of this study, as well as ideas for further research on this topic. Additional

information on the interviews is provided in Appendices A and B, a Glossary is provided in Appendix C, and supplementary tables are in Appendix D.

1.9 Summary

This dissertation contributes to the empirical evidence available on the roles of foundations in Canada. Drawing on the concepts of policy entrepreneur and policy cycles, and adopting an institutionalist lens, this dissertation offers three thick descriptive case studies of foundations' policy engagement. It should enable further cross-national research on foundations that will elucidate the implications of foundations' roles in public policy. The findings will assist policy makers, foundation executives, and scholars in clarifying the place of foundations as policy actors in Canada. This will also contribute to comparative research on foundations that, at the moment, largely ignores Canada.

2 LITERATURE REVIEW

The objective of this chapter is to review current and relevant literature related to the study of the Canadian philanthropic foundation sector. This summary of the literature describes what is currently understood about the research problem, what we do not know, and what areas for future research are suggested by noted scholars. This review points to the possibility that Canadian foundations are a unique and increasingly institutionalized set of organizations that strategically contribute to public-policy agendas, leading from within the third sector as policy entrepreneurs. This finding is based on secondary research and will be explored as a possible way to encapsulate the empirical evidence presented in this dissertation.

This chapter is organized as follows: first, philanthropic foundations in the third sector in Canada are mapped out; an overview of the institutional, historical, and governance contexts is provided; and the literature on foundations in Canada is reviewed briefly.

2.1 *Mapping Foundations within the Canadian Third Sector*

In 2013, the Johns Hopkins Centre for Civil Society Studies released *The State of the Voluntary Sector and Civil Society*, which rated and compared the third sector across OECD and other countries, and explored the profile and economic footprint of the sector in Canada (Salamon, Sokolowski, Haddock, and Tice 2013). The report stated that on average, among the 16 countries explored, employment in the third sector accounted for 7.4% of total employment. The report found that the value of paid and volunteer work in the third sector in Canada accounted for 8.1% of GDP. This is more than the 4.5% average for the other 15 countries and is the highest among them. In fact, Canada ranked above average in the majority of the indicators presented (Salamon, Sokolowski, Haddock, and Tice 2013). The policy domains of health, education, and social service account for 74% of the third sector initiatives in Canada (Elson 2009, 14-15; see also, Kryvoruchko 2013, 2013a).

Publicly available data on foundations indicates that there are at least 86,000 registered charities in Canada, and over 10,000 foundations. About half of these foundations are public, and half are private. Foundations are in fact the fastest growing type of charity in Canada (Blumberg 2016; Imagine Canada and PFC 2014; PFC 2016). PFC reports that in 2015, foundations managed approximately \$71 billion in assets, and made over \$5.6 billion in grants. Of this sum, public foundations made \$3.6 billion in grants, and private foundations \$2 billion

(Imagine Canada and PFC 2014). Yet, amongst the members of PFC that were primarily private family foundations (see Glossary), about two thirds of grants were made to “foundation-managed” charitable causes. This could be interpreted as evidence of the primarily donor-directed nature of private foundation funding (PFC 2017) that has historically garnered critique. However, this family foundation funding represents only about 10–12% of total foundation giving in Canada.

In terms of the distribution of assets among foundations, as of the most recent available data in 2014, 150 of the top grant-making foundations in Canada¹ contributed over 25% of total grants made by foundations, which represented approximately \$1 billion in gifts. The MasterCard Foundation, the largest foundation in Canada, gave the most in 2014, at \$84.1 million. In 2014, 30% was distributed to education, 17% to health, followed by social services at 10%. The remainder included, for example, international causes, voluntarism, fundraising, environment, and housing. Only 1% (or \$9.1 million) was directed at legal, political, or advocacy (see Glossary) causes; only 8% (\$77.6M) went toward religious causes (Imagine Canada and PFC 2014).

Foundations’ granting practices contribute to the disparities and divergence in organizations’ size and scope in the Canadian third sector in the context of declining public funding and increasing costs of social services like higher education and healthcare. Geographically, information from T3010 tax forms and data self-reported to Imagine Canada’s Grant Connect database also shows that, of the annual donations for the 150 largest foundations in Canada (which control over \$10 billion in assets), about half are distributed in Ontario, a fifth in Québec, and only a twelfth across Manitoba, Saskatchewan, and the Maritimes combined (Imagine Canada and PFC 2014, 15).

¹ “Top grantmaking foundations were identified using a combination of T3010 financial data and criteria derived from Grant Connect for each year from 2002 through 2012. T3010 data was obtained from Canada Revenue Agency (CRA) in the form of an electronic database. To be evaluated, organizations had to meet a number of scope criteria: 1. to be designated by CRA as either a public foundation or a private foundation; 2. to have not had their charitable status revoked for cause; and 3. to have received more than 50% of their revenues from non-governmental sources.” Out of scope of this survey data were “Operating charity – Charitable status revoked for cause; More [sic] than 50% revenues from government sources; Less [sic] than \$50,000 in gifts to qualified donees on line 5050” (Imagine Canada and PFC 2014, 18). This means that Crown foundations and parallel foundations (such as hospital foundations or university foundations) were beyond the scope of the available data.

The latest available data from 2012 shows that there were only three grant-making foundations in Saskatchewan (excluding parallel foundations, operating foundations, and private foundations supporting only one grantee, the definitions of which are provided later in this chapter; also see Glossary). Saskatchewan foundations accounted for only 1% of the assets of grant-making foundations in Canada. Altogether, in terms of attention to different policy domains, in 2011, the top grant-making foundations in the province provided 28% of top grants to education and research, 16% to social services, 15% to health, and 9% to religion (Imagine Canada and PFC 2014, 13).

The University of Victoria undertook a deeper mapping of the social economy (see Glossary) in Canada between 2005 and 2011. The geographical scope was primarily Ontario, Québec, and Nunavut. Smaller studies were undertaken in Prince Edward Island. More piecemeal studies were conducted in British Columbia and Alberta. The scope of social economy activities, social enterprises, levels of policy support, financial trends, economic impacts, and physical infrastructure were documented (Thompson and Emmanuel 2012, 95). The mapping's findings point to early evidence of the importance of organizational collaboration within the third sector in order to pursue stated policy objectives. The mixed economy (e.g. trading and harvesting native vegetation) in Indigenous communities in the North was also a particular focus of the study. Over 1,000 social economy organizations in Nunavut were identified, about a quarter of which were run by Indigenous peoples. In addition, over half of the representatives on these third-sector boards in Nunavut were Indigenous. Elsewhere in Canada, there is an under-representation of Indigenous people on foundation staff and governing boards (Salamon et al. 2013, 114). Since the 1980s, Canadian and American foundations have both moved away from the traditional forms of humanitarian relief aid provided to developing countries (Oxfam, for instance) to supporting local and Indigenous charitable organizations. The University of Victoria study aside, quantitative research on Canadian foundations has been conducted primarily by professional associations, including Imagine Canada, Community Foundations Canada (CFC), and PFC (save for Kryvoruchko 2013, 2013a, or those that are mixed in with think tank research such as Abelson [2005], and Lindquist [2004]).

2.2 Institutional Context

Foundations are organizations operating within the third sector. Private foundations' policy roles are contested because they have limited representational scope, i.e., an elite of a few donors. Historically, disunity and lack of coherent policy objectives both amongst themselves and in relation to the rest of the third sector has constrained their policy influence. The emerging literature on foundations points to this long-standing phenomenon in Canada (Phillips and Rathgeb Smith 2011; Pearson 2010; Reckhow 2016).

The Canada Revenue Agency (CRA) defines a foundation as “a registered charity that makes grants to other charities and to those organizations recognized by the federal government as ‘qualified donees’” (Canada 2016, 1). The *Income Tax Act* establishes the legislative framework for charities and foundations, provides foundations with an operational mandate, and more generally, sets the basis for the relationship between the government and the third sector. The *Income Tax Act* is also a source of challenges for the third sector (Phillips, J. 2000; Payne and Zhao 2007; Phillips, J., Chapman, and Stevens 2001; Phillips and Rathgeb Smith 2011; Sharpe 1994; Sexty 1980; Hoffstein 2007; Bromley 1999; Burrows 2009). The contentious issue is whether the CRA should assist and enable the sector to achieve their policy goals, or whether its primary function is to enforce appropriate regulation, accountability, and oversight.

The contemporary Canadian landscape for foundations – including the definition of charity, the lack of clarity in that definition, and how a charitable purpose is understood – is rooted in the Elizabethan Poor Laws enacted in Great Britain in 1601. The sentiment of these laws was embodied in Canada in 1891 in *Pemsel vs. Special Commissioners of Income Tax*. The modern framework for foundations is found in the *Income Tax Act*. While no specific definition of “charity” is provided in the *Income Tax Act* or any other federal legislation, charitable purposes are identified as the relief of poverty, advancement of education, advancement of religion, or purposes beneficial to the community. Other legal developments have further refined the Canadian Revenue Agency's (CRA) interpretation of the meaning of “charity,” but it has not been prescribed or laid out definitively in one piece of legislation other than the *Income Tax Act* (Innes and Boyle 2006, 3-4; Kryvoruchko 2013). While registered charities and non-profit organizations (NPOs) have tax-exempt status, the CRA only permits the former to issue tax receipts to donors (see Glossary).

Legally, according to CRA policy statements, there are three types of charities in Canada: registered charities, public foundations, and private foundations. The difference between public and private foundations is that public foundations are controlled by boards made up of a majority who operate at arm's length, while at least 50% of private foundations' directors do not deal at arm's length (i.e., they have directly made significant financial contributions to the foundation). For example, the United Way is a public foundation, whereas the McConnell Foundation is a private foundation (Innes and Boyle 2006; PFC 2016a. For additional information, see Glossary.)

There is no comprehensive, agreed-upon taxonomy of foundations (Fleishman 2009; Powell 2006, 355), yet there are legal (below), academic (Graddy and Morgan 2006; Hall and Reed 1998, 45), and professional typologies (Pearson 2016; Lenkowsky 2002). These vary by country (Canada 2005; Anheier and Daly 2007). There are also nationally based, generally accepted operating rules for foundations that assist in describing their roles (Lagemann 1999; McCoy and McGoey 2011; Pearson 2016; Phillips 201; Prewitt 2006; Ulbert 2011). The legal nomenclature is an important starting point for exploring these typologies. Legally, "tests of charitable intent are essentially, at least in theory, expressions of current judgment about the kinds of activity that qualify for these more or less automatic benefits" (Gregory 1993, 53). In Canada, according to the *Income Tax Act*, foundations fund charities – that is their common purpose.

Some argue that foundations' roles in policy making are akin to, or limited to, their roles as funders. For instance, in a multinational, qualitative, and comparative study, Lenkowsky notes the institutional nature of foundations as "bankers" in the third sector (2002). Foundations also play an intermediary function between individual donors and recipients, which serves to reduce information asymmetries (see Glossary) and inefficiencies that arise from crowding out of a growing number of potential recipients. In an empirical study of Canadian foundations and tax policy and the charitable sector, Kyrvoruchko finds that, for every dollar invested by foundations in charities, private donations to those charities increase on average by \$3.70 (2013). Neither of these are benign or apolitical functions, however. The funding decisions and systemic policy agendas (see Glossary) require judgment and decision-making by individuals or organizations who are not democratically elected. In a collection of articles on the politics of foundations in the United States, Teles (2016) similarly argues that

the character of funding sources, including the organizational form particular to foundations, and their political preferences determine the allocation of resources and foundations' strategic choices.

The nature of foundations' policy roles is inherently political. In a comparative study, Anheier and Daly note the impact that different national and jurisdictional contexts have on foundations' political roles. The authors find that, despite these differences, the use of a consistent analytical framework across case studies and jurisdictions can assist in identifying common themes across cases, and common issues, opportunities and challenges (2007). Reich (2016) suggests that private foundations represent the legal institutionalization and acquisition of private wealth in the place of public funds for public purposes. Although he suggests that foundations are an institutional form particular to the United States, this proposition is not borne out by other research (Prewitt 2006). The existing research on foundations shows that, as foundations grow in number and as their assets increase, they become increasingly politicized and institutionalized, although their roles in democratic society tend to be somewhat contentious (Anheier and Daly 2007; Elson 2011; Stone, Dehnham and Garnett 1998; Abelson 2016; Phillips 2007). Their legitimacy is contested depending not only on the issue but also on the jurisdiction (Anheier and Daly 2007; Prewitt 2006). Though the focus of this dissertation is specifically the policy roles of foundations, rather than their political roles, the contributions of these aforementioned authors are important to keep in mind. Moreover, this study will explore the roles of foundations in public policy beyond their roles simply as funders of charitable organization.

Separate foundations also work together toward shared policy goals. With respect to foundations in the US, Reckhow notes that, in part to overcome some of the challenges presented by foundations' institutional constraints and governance frameworks, they "have coordinated their efforts by supporting aligned issue agendas, research programs, and advocacy efforts, and by linking organizations engaged in related policy efforts" (2016, 450). This observation is further supported by Pearson's research on the strategies of Canadian foundations, which she bases on interviews with foundation executives in Canada (2010). Pearson (President and CEO of Philanthropic Foundations Canada) provides evidence that foundations have been collaborating with one another across policy domains since at least 2009 in an attempt to overcome such challenges (2010). In Canada, federal cutbacks related to both

Liberal and Conservative governments' move to NPM since the 1990s have had implications for foundations (Canada 1996, 68; Elson 2011b; Philips 2016). The closed fiscal policy regime (see Glossary), embedded in the primacy of the *Income Tax Act* for the regulation of foundations, has necessitated these developments. Collaborations between Canadian foundations have occurred through formal financial arrangements, strategic alliances, and policy learning (Phillips 2010; Reckhow 2016). Like Cohen and March (1972), Pearson (2005) refers to this activity "loose coupling" (2005).

Given the challenges foundations face, it seems that reform is necessary. However, quoting Philips, a leading Canadian scholar in studies of the third sector and community foundations (see Glossary), and Rathgeb Smith, a professor of public policy at Georgetown University, "Arguably the most important impediment [to third-sector reform] is the lack of vision of the role of the third sector in the guiding philosophy of the public management" (2011, 229). This observation reinforces the importance of increasing the evidence available to support more sophisticated discourse on the roles of foundations in Canadian policy processes.

Foundations are enduring and adaptable. They operated as trusts in the early 20th century and were officially recognized by all of the provinces in 1950, at which point they also faced new requirements to meet disbursement quotas. Thus, even as they are conferred legitimacy by the state, they are increasingly regulated, thereby decreasing their autonomy. Nor are they autonomous in relation to their benefactors. The prevalence and proliferation of regulations regarding arm's-length dealings points to the risk that donors' interests and values may supersede the state-sanctioned mandates of foundations (regulated through the *Income Tax Act*, the CRA, and the Charities Directorate) and supported organizations (via indirect expenses provided through tax credits and deductions). Their organizational forms have become more complex: from trusts and estates of religious organizations or wealthy benefactors, to innovative organizations in the social economy. More and more, they have large professional staffs, communications programs, and bureaucratic procedures that provide institutional coherence and unity of direction. Coherence is also evident in the adoption of common codes of ethics amongst foundations, and their participation in umbrella organizations.

2.3 *Historical Context*

Developments in the Canadian foundation sector have closely followed those of the US (Kryvoruchko 2013). However, research shows that regulatory policy in Canada also tends to follow UK policy trends. Although this tendency is less evident in the popular discourse, with the exception of the Voluntary Sector Accord (VSA), which can be linked to the UK's compact with the voluntary sector (2010; see also Elson 2009, 2010a, 2010b; Phillips and Rathgeb Smith 2011; Prewitt, Dogan, Heydemann, Toepler 2006; Laforest 2013). Other cross-national research suggests that claims about the legitimacy of foundations tend to be based on legal or moral grounds, rather than on foundations' contributions to innovation in the third sector. Legally, foundations are not dependent on political processes or market forces for determining their preferences, which makes them uniquely independent; additionally, there is a moral (or political) imperative for foundations and their donors to complement the role of the state by delivering or funding public goods (Anheier and Daly 2007). The histories of foundations across all three countries show the jurisdictions grappling with similar issues in different ways. As evidenced in the literature, the modern discourse on the policy roles of foundations is riddled with concerns regarding their legitimacy, transparency, and accountability vis-à-vis the democratic state, and similarly in public policy (e.g. the early 1960s, and the late 1970s in the US [Brilliant 2000]; the 1980s and 1990s in Canada [Elson 2011b]; and the 1990s in the US and Europe [Anheier and Kendall 2001; also BBC 2006; Prewitt, Hydemann, and Toepler 2006; Williams 2010]).

Even before the issue of taxes became entangled with the operation of foundations, there was a good deal of concern about them. While charitable exemption from income tax was applied to all charitable organizations in Canada in 1917, in the US, foundations were only included in 1921 (Kryvoruchko 2010; Brilliant 2000; Fraser 2003; Dobkin Hall 1999). Canadian understandings of and attitudes toward foundations are rooted in this historical context, and influenced especially by legal and political developments in the US. As foundation executive, Yale professor, and author Leonard Bacon questioned in the early 20th century, “a true responsibility of the executive to some superior or constituent power is a security against mismanagement and the gradual perversion of the trust” (Dobkin Hall 1999, 15). Bacon warned against two specific deviations in the mandates and operations of foundations. First, that although possibly unintentional and gradual, “fraudulent mismanagement” was a

“consequence of devoting their minds too engrossingly to the one particular interest which they have in hand” (1999, 15). Second, Bacon warned, “Power, and especially executive power, if placed in irresponsible hands, grows and accumulates till nothing but the violence of revolution can resist it... [therefore, it] should be carefully guarded and bounded by corresponding responsibility” (15). His was essentially the first American study of what should be considered appropriate governance and accountability for foundations.

The fear of plutocracy (see Glossary), the power of an elite few, in the form of foundation or “trust associations,” as they were referred to at the time, was pervasive in the early 20th century. These perceptions of foundations’ legitimacy, motivations, and (lack of) accountability can be traced to the roles of robber barons and men like Rockefeller, Ford, and Sage, and the well-known philanthropists of the industrial era like Carnegie (Lagemann 1999). This distrust infused the Canadian discourse on foundations for decades. Brock notes, “There is a joke in Canadian policy circles that Canada is usually ten to twenty years behind Britain and the US in awakening to new policy realities and adopting innovative policy reforms” (2000, 1). This research suggests, however, that this lag between Canada and both the UK and the US has grown wider in recent decades. This pattern is also evident in Canada.

In the early 20th century, the philanthropic contributions of the Carnegie Corporation and the Rockefeller Foundation to Canadian arts and letters were significant. The aim of the contributions was to supplement functions not then provided by the government, in order to eventually have them publicly funded, thereby aligning public and philanthropic policy agendas. These private foundations’ investments are evidence of the perceived American influence on Canadian culture through the contributions of private foundations:

The goal of both foundations was, after all, to act as catalysts for the reform of society and culture, to support and empower individuals and organizations who shared their goals for the arts and letters, and later, when their influence was fully institutionalized, to quietly relinquish control and overt influence... by 1957 American foundations’ influence had thoroughly permeated the institutions that formed the infrastructure of Canadian culture. (Brison 2005, 201)

There were concerns about this US influence on Canadian culture, and of the use of culture as propaganda in totalitarian regimes. In 1949, Prime Minister Louis St-Laurent established the Royal Commission on National Development in the Arts, Letters, and Sciences. It is commonly

referred to as the Massey Commission, after the chair, Vincent Massey.² The final report of the Massey Commission was released in 1951, essentially advocating for increased federal funding for these Canadian endeavours that were funded by American philanthropists (Brison 2005; Stewart and Kallmann 2006). The report noted, “It is in the national interest to give encouragement to institutions with express [Canadian] national feeling” (Stewart and Kallman 2006, 3). Thus, it acknowledged and affirmed the influences of foundations for Canadian public policy in relation to the arts, letters, and sciences, and it enacted federal policies to limit American influence.

The Massey Commission resulted in the establishment of the National Library of Canada in 1953 (now the Library and Archives Canada), and in 1957, the Canada Council (now the Canada Council for the Arts), and it increased funding for the Canadian Broadcasting Corporation (CBC). It signified a change in the Canadian political economy for support of the arts, letters, and sciences from one of American philanthropic patronage to one of public patronage. Two Canadian industrialists, Izaak Walton Killam (of the Killam Foundation) and Sir James Dunn endowed the new Canada Council with \$100 million. The president of the Rockefeller Foundation at the time noted that the contributions to the new Canada Council were greater in the first few years of its operations than those to his foundation over 45 years (Brison 2005, 198). Brison (2005), Roelofs (2003), and Arnove (1980) point to these US philanthropic foundations’ contributions as evidence of the plutocratic pursuit of American cultural hegemony.

As for tax exemptions, in the 1950s, Canada was also among the first developed countries to implement disbursement quotas of annual revenues for foundations. The objective was to regulate their accumulation of wealth, as well as to ensure that foundations were fulfilling their charitable purpose of putting private dollars to work for the public good. (It was not until 1966 that a charitable registration number was also required to issue a donation receipt in Canada, which some argue contributed to the lack of historical data (perhaps also transparency in the third sector) preceding this time on the third sector in Canada [Drache, Hayhoe, and Stevens 2007]).

² Hilda Neatby, a history professor at the University of Saskatchewan was a member of the Massey Commission (Stewart and Killmann 2006).

Concerns about foundations continued well into the 20th century. In 1965, the US Treasury Department gave a public report to the House Committee on Ways and Means entitled, *The Treasury Report on Private Foundations*. The report recommended the following measures:

- 1) Prohibiting financial transactions [self-dealing] between a foundation and its contributors, officers, directors, or trustees.
- 2) Limiting the period during which a foundation may withhold income from charity.
- 3) Limiting the ownership of stock to less than 20% in any business.
- 4) Limiting the use of a foundation to maintain family control over a business.
- 5) Barring speculative practices by foundations, such as borrowing money for investment purposes, etc.
- 6) Broadening the base of foundation management after the first 25 years of a foundation's life so that after that time the donor or related parties could not make up more than 25% of the foundation's governing body.

(IUPUI 2016)

These recommendations were in response to growing public concern regarding the accumulation of wealth in private foundations, and reports of abuse of funds, tax shelters, tax fraud, and mismanagement of funds. Given their tax-exempt status in a time of rising taxes for citizens, there was a problematic perception that foundations were not doing their share to contribute to the public good (IUPUI 2016). These recommendations continue to provide the basis for legislation on the responsibilities, accountability, and transparency of philanthropic foundations in both the United States and Canada.

In 1968, in the wake of the House committee's findings, John D. Rockefeller III formed the Commission on Foundations and Private Philanthropy (known as the Peterson Commission) to "analyze the role of foundations and tax incentives" (Brilliant 2000; Burlingame 2004, 372). The commission was supposed to independently and objectively assess foundations' roles. The recommendations of both studies informed the Tax Reform Act of 1969 (TRA), which imposed a number of accountability measures and tax policies for

foundations, including the mandatory disposal of at least 6–8% of a foundation's annual income.

The Peterson Commission also recommended the establishment of the Commission on Private Philanthropy and Public Needs (also known as the Filer Commission, after the chair, John Filer), which was created in 1972 (Burlingame 2000, 372). The Filer Commission was supported by the chairman and the secretary to the treasury of the House Committee on Ways and Means, among others. Its mandate was to make recommendations on how to increase the strength and effectiveness of the philanthropic sector (IUPUI 2016b). With respect to the regulation of philanthropic foundations, recommendations included:

- That all larger tax-exempt charitable organizations except churches and church affiliates be required to prepare and make readily available detailed annual reports on their finances, programs, and priorities.
- That all tax-exempt organisations be required to maintain "arms-length" business relationships with profit-making organisations or activities in which any principal of the exempt organisation has a financial interest [commonly referred to as arms-length dealing].
- That non-profit organisations, other than private foundations, be allowed the same freedom to attempt to influence legislation as are business corporations and trade associations, that toward this end Congress remove the current limitation on such activity by charitable groups eligible to receive tax-deductible gifts.
- That a permanent national commission on the nonprofit sector be established by Congress. (UIPUI 2016b)

When the Commission's work was completed, the process to follow the recommendations and organize a national commission was determined, but fell off of the policy agenda at the next election. The absence of a consistent and prominent federal policy advisory group, as the Filer Commission recommended for the third sector, continues to create problems for the third sector in Canada and the United States (Phillips and Smith 2011). The implications for Canada are discussed below.

Policies in Canada closely followed these developments in the US (Kryvoruchko 2013).

The Canadian reforms followed in the Carter Commission, formally known as The Royal Commission on Taxation, published in 1967. Most notably for foundations, the 1977 Canadian Tax Reform Act, enacted under Liberal Prime Minister Pierre Elliott Trudeau, followed the spirit of the 1969 American Tax Reform Act. The Carter Commission was fundamentally different from its preceding US commissions in that it was commissioned by the Canadian government (rather than by foundations) and had a broader scope: it considered the entire Canadian tax system. The main policy objective of the Carter Commission was to reinforce the fact “that the purpose of the tax system was to raise revenue equitably: ‘The first and most essential purpose of taxation is to share the burden of the state fairly among all individuals and families’” (Carter Commission 1967, 635). It was also firmly rooted in welfare economics and neo-Keynesian fiscal policy, which informed the modern Canadian tax regime.

The Carter Commission concluded, “for the foreseeable future...the charitable sector in Canada will be subsidized through the tax system” (Woodman 1988, 537). For Canadian charities, the principal change to the *Income Tax Act* that resulted from this commission was the requirement introduced in 1966 while the work of the commission was still underway that charities be registered to provide receipts to donors for the purposes of tax deduction. Afterwards, universities like the U of S were able to issue tax receipts, and therefore had to establish parallel foundations in order to do so. For foundations, the other effect was that charitable corporations and trusts were required to spend 90% (later 80%) of their annual income on operating charities or through donations to charities. Foundations were also not allowed to own businesses, conduct business, or acquire control of a corporation (Woodman 1988, 547-548). Today, these regulations are known as self-dealing rules.

In 1977 and 1987, new regulations for charities were introduced. In 1977, the minimum requirements for charities’ spending on charitable causes (as opposed to fundraising or administration) was increased. Also in 1977, new definitions were created to distinguish among private foundations, public foundations, and charitable organizations. Charities were also required to file public information returns. In 1987, absolute limits were made on tax credits for charitable donations. These new regulations amended the policy for tax credits from one that placed limits based on the proportion of annual income, to one that placed “a federal tax credit of 17% on the first \$250 of donations, and a credit of 29% for any donations exceeding that amount” (Domingue 1996, 4). The Canadian history of tax regulation since the 1990s as it

relates to the regulations of foundations is explored in Chapter 5, as it is closely linked to the policy changes for exemption of capital gains tax for the donation of publicly listed securities.

2.4 Governance

Today, these public, legal, and institutional constraints in Canada set the stage for the interactions between the government and third-sector organizations such as foundations. For instance, the *Income Tax Act* is a formal closed fiscal policy regime; the social policy regime (see Glossary) is also formal, although slightly more accessible, whereas third-sector collaborations are non-formal, as opposed to informal (see Glossary). There are no federal or provincial ministries responsible for third-sector organizations, whereas ministerial representation at both levels of government exists for fiscal policy, health, and social welfare. As Elson states,

The non-formal institutional structure type features transitory representational and reporting system that is non-transferable across time and issues. Informal institutional structures reflect an ad-hoc representational and reporting protocol that is also non-transferable across time and issues. (2008, 12)

At the same time, the third sector is increasingly represented by umbrella organizations, such as the PFC, CAGP, and Imagine Canada. As these increasingly formal organizations become bureaucratized, prevailing research suggests that incrementalism might become dominant (Baumgartner, Jones and Mortensen 2013; Lindquist 2006, 10; Stone 2000a), thus reducing the potentially innovative contributions of foundations to public policy. As Lindquist suggests with respect to think tanks in Canada, “investment in the existing policy regime builds an element of inertia into these subsystems, resisting the criticism and ideas from those inside and outside government not aligned with those interests” (2006, 9). This suggests that the same insight might be applied to foundations. It could perhaps even be part of the reason for their apparent absence from fiscal policy discourse about the third sector, for example. At the same time, this inertia may provide a counterbalance to the contested legitimacy of the influence of foundations on public policy.

A unique characteristic of the Canadian context compared to its US counterpart is that, with federal and provincial powers centred in a prime minister or premier’s office and cabinet, the Canadian system encourages the development of policy networks and interest groups.

Networking takes place because the policy system is by nature a closed regime, although it is subject to feedback from outside the system (Elson 2007; 2011b; McRae 2011). Strong coalitions are better able to influence governments. The importance of strong coalitions is even more so the case with fiscal policy than with social policy. Power is more dispersed and diffused in the US system than in the Canadian system, which provides less incentive for formal organizing in the third sector. The point of power also changes with the issue, time, actors, and context (Lecours 2005).

The institutional space for foundations in policy processes exists in an interesting “no man’s land” located between federal and provincial jurisdictions, i.e., in a non-formal regime (see Glossary). The formal nature of the fiscal regime and the non-formal nature of the third sector regime, as well as their contested legitimacy, make policy engagement for foundations a challenging endeavour (Howlett 1997; Phillips, J. 2000; Phillips 2009). In Canada, the *Income Tax Act* (a fiscal policy instrument) imposes limitations from the federal level on the social policy pursuits of foundations. Foundations can also be constituted through provincial legislation. But at neither level is there a minister solely responsible for charities, despite numerous attempts to create one (see the *People in Action* [1977] and *Broadbent* [1999] reports, the Panel on Governance and Accountability [1999], and the Imagine Canada campaign [2002]) (Elson 2008, 67). In a historical institutional analysis of the study of the relationships between the government and the voluntary sector in Canada, Elson notes, “Institutions are not the instruments of key policy actors; rather, they constrain and shape the actions of policy actors and ultimately influence policy outcomes” (2011, 7). This is an accurate assessment, but at the same time, others suggest that it is only through direct engagement in policy discourse related to the foundation sector itself that constitutes public policy engagement (Mintrom and Norman 2009; Prewitt 2006; Petridou, Aflaki, and Miles 2015; Scharpf 1997).

The resultant challenges for the third sector of the non-formal policy regime have been documented in many reports. For instance, in 1974, the National Advisory Council on Voluntary Action was established (Elson 2011, 61). Three of the issues identified were (1) broadening Canada’s narrow definition of charity, (2) improving funding arrangements and tax policies, and (3) improving collaboration between the government and the third sector in terms of policy development. All of these are still pertinent issues. According to the government of

Canada's 1977 report, "implementing the work was hampered by bureaucratic procedures imposed by the government, by instances of outright bureaucratic resistance, and by lack of access to information about government voluntary-sector programs" (Elson 2011, 61). This imbalance in the relationship between the federal government and organizations in the third sector, as well as limited transparency amongst foundations results in further mistrust of both the government's and foundations' policy objectives (Brock 2000, 7; Bourassa and Stang 2015).

Two consequences and complications for the third sector's delivery of social goods have resulted from federal funding cuts in the 1990s under the Liberal government that persisted into the 2000s under the Conservative government. Demand for third-sector programs and services went up as governments restructured the social safety net or cut social programs; while they expected that these services would be picked up by the third sector, they simultaneously cut, targeted, or tied strings to the government funding that had been left over for those organizations (Brock 2000, 4; Miller 1999, 76). In an environment of contract funding and increased complexity and demand on third-sector organizations, there has been a decrease in base operating funding available to NPOs. Meanwhile, similarly to governments, foundations are also increasingly providing funding on a project, grant, and term basis while imposing reporting requirements on recipient organizations (Elson 2011, 168; Phillips and Rathgeb Smith 2011). The implications for this include a widening gap between large charities and newer, smaller organizations, the former being better able to adjust to the changing funding environment than the latter.

Questions regarding legitimacy and accountability have been a recurring theme for government, foundations, and the public. As Clotfelter and Ehrlich (1999) note, "concerns about the unchecked power of philanthropic foundations raised by conservatives in the 1960s were resurrected by liberals in the late 1980s and 1990s" (2007, 391; Clotfelter and Ehrlich 1999; see also Arno and Pinede 2007, 391; and, Bourassa and Stang 2015). Public concern and media attention permeated perceptions of third-sector organizations (see Appendix D for applicable legislative changes). In the 1990s and 2000s, there was again (like in the 1960s and 1970s) widespread concern regarding private sector improprieties in business dealings, as well as public sector excess and wastefulness.

Concerns regarding the governance, transparency, and accountability of charities and foundations peaked again in the 1990s. Media exposés revealing misuse of funding within the Red Cross and United Way reinforced these worries (BBC News 2006; Shepard 1992; Williams 2007; Brock 2000; Stewart 1996). Brock notes,

Perhaps most damaging of all was the publication by an Ontario Member of the federal Parliament, John Bryden, *MP's Report: Canada's Charities—A Need for Reform*, alleging that the organizations were unrepresentative and self-serving special interests lacking accountability and legitimate purpose. The upshot was that the Department of Finance commissioned a review of grants to so-called special interest groups, cutting their funding by \$300 million within a year (Miller 1999, 76), and reformed the *Income Tax Act* to ensure greater transparency within the sector. However, the longer-term effect was to give birth to the Broadbent Commission and Joint Tables. (2000, 4)

John Bryden proposed Bill C-262, which would have required that salaries for highly paid staff in third-sector organizations be disclosed and penalties imposed where the reporting requirements were not met (Hall 1995). The bill prompted the CRA to make some amendments to the T3010, the annual return form for registered charities, requiring disclosure of the top five salaries in the organization, and adding a few questions about them (Canada 1996). Bryden continues to make critiques of the third sector today.

Thus, in the 1990s, partly in reaction to a few high-profile public scandals, but also as a response to the “program evaluation” undertaken by the Liberal government under the leadership of Finance Minister Paul Martin, the tone of the policy dialogue shifted from one that had for the previous 25 years been characterized as “harmonious” to one of mistrust (Miller 1999). A prominent UK expert on local democracy, and accountability and governance of voluntary organizations signalled that the election of the Liberal government in Canada in 1993 was a:

Temporary end to the largely harmonious 25-year relationship between the voluntary sector and the Canadian state. Within two years of assuming office, the new government cut grants; increased contractual, targeted funding; downloaded responsibilities; removed national service standards; sponsored a

sweeping attack on welfare recipients; and, in sum threatened the whole social welfare system. The voluntary sector felt “under siege.” (Miller 1999, 75)

The public discourse stemming from these critiques focused on the need to increase accountability, transparency, and oversight of Canadian third-sector organizations and foundations.

Given this mistrustful environment and the difficult fiscal situation that third-sector organizations were experiencing, the Voluntary Sector Roundtable (VSR) was established in 1996 by a group of 13 Canadian NPOs (Elson 2007). Following the 1997 federal election and partly in response to the VSR, the Liberal caucus, led then by Prime Minister Jean Chrétien, established the Voluntary Sector Task Force. The task force was housed in the Privy Council office. Part of the purpose was not only to address the Broadbent Report’s recommendations, which had received considerable attention, but also to “overshadow” the government’s neoliberal policy agenda vis-à-vis the third sector (Elson 2007, 55).

The goal of the VSR, the horizontal approach, was to advocate for the sector’s policy objectives in the forthcoming 1997 federal budget, including working toward a friendlier regulatory environment. On behalf of the sector, the roundtable would be the official liaison with government. What prompted the initiative was, in short, “the recent history of financial set-backs, forced structural changes, dissolutions and amalgamations within the voluntary and charitable sectors” (Dover 1996). The roundtable led to the formation of the Panel on Accountability and Governance of the Voluntary Sector (PAGVS), which in turn produced the *Broadbent Report*.

The *Broadbent Report* had a significant impact and continues to be relevant (possibly because many of the recommendations were not implemented). In a review of this report shortly after it was released, Gordon Floyd, then Vice-President Public Affairs at the Canadian Centre for Philanthropy, states:

Perhaps most significantly, [the report] challenges the sector, and also the sector’s partners in government, to work in a more coordinated fashion towards a common goal of improving the quality of life for Canadians. It proposes, for example, stronger umbrella organizations and a negotiated operating agreement between the sector and the federal government. It recommends a regulatory regime that nurtures voluntary organizations as well as polices them (1999, 6).

In this sense, the 1999 *Broadbent Report* was recommending the organizational development and improved coordination amongst third-sector organizations. Following the recommendations of the federal government's task force, in 2000, the Voluntary Sector Initiative (VSI) was established.

The VSI was slated as a five-year, \$95 million collaborative project between the federal government and the third sector, although the work had not been formally completed in the mandated period. The VSI breathed new life into conversations between government and the third sector, and reinvigorated members of the third sector. Phase one of the VSI resulted in a Voluntary Sector Accord in 2001. The accord was similar to the UK's equivalent precursor from 1998 called "Compact14." The accord was a "policy agreement that outlines a framework and processes for a mutually desired relationship, including a shared vision of civil society and a desire for collaboration and partnership" (Phillips, 2002, 12). It outlined a "mutual commitment to building a positive future relationship toward common purposes" between the third sector and the public sector (Elson 2007, 56). The VSI was followed by the Conservative government's "Blue Ribbon Panel" review of the \$27 billion in "grants and contributions" to the sector in 2006 (Phillips 2009, 7). This Conservative policy agenda was foreshadowed by the Liberal government's similar focus on funding reductions, delegation, placation, and increased oversight and accountability of the third sector. However, it has since overshadowed the Liberals' earlier actions. These broader conversations about the place of the third sector in Canadian society provide an important backdrop to the present study. The VSR and VSI are examples of two possible strategies for improving relations with government, according to Phillips (2003): either work better horizontally within the third the sector; or vertically with government.

There are several factors that have had the effect of ensuring an asymmetrical relationship between the third sector and the state in Canada. In spite of concerted and sometimes coordinated efforts on the part of other ministries, the federal Department of Finance had persisted in controlling policy discussion relating to the third sector and social policy more broadly (for example, Canadian Heritage, CIDA, and PHAC) (Ashton, 2011; Drache, Hayhoe, and Stevens 2007; Esparza 2000; Klausner et al., 2003; McRae 2011). By most accounts, however, the third sector has endured a "lack of traction [in] moving federal government policy" (McRae 2011, 249), though it was not for lack of trying. Moreover, "It is

unclear, however, if this lack of success is due to limited structures created by voluntary organizations, or as Elson (2011) points out, the movement of control of social policy from various government departments to the Department of Finance” (McRae 2011, 249; see also Elson 2011; Laforest 2009; Phillips and Smith 2011). These observations are critical to this research study.

2.5 *Literature on Canadian Foundations*

As noted, there is limited empirical research on Canadian foundations and, therefore, inadequate insight into the unique organizational forms that they take on in this country. The Canadian literature includes reports on the distribution of foundations in the third sector across Canada, sources of funding, recipients of funding, giving trends, and monetary assets across policy domains and over time. Quantitative research on Canadian foundations has been conducted primarily by professional associations, including Imagine Canada, Community Foundations Canada (CFC), the Max Bell Foundation, and PFC. Imagine Canada has conducted research on the entire third sector; CFC has researched community foundations; and PFC has investigated public and private foundations (including community foundations) (Imagine Canada 2010; Johnston 2012; Northcott and Uytterhagen 2002; Imagine Canada and PFC 2014). Kryvoruchko has contributed quantitative information from an academic perspective on recent trends in the Canadian foundation sector (2010). These reports have not considered the unique developments of Canadian foundations. These innovations include Crown foundations, state-owned foundations, and Indigenous foundations, discussed below.

Crown foundations are one of many types of “agents of the Crown” (Bromley 1993). Generally, Crown agencies are established (and usually also funded primarily) by their home provincial governments. In their respective provincial acts, universities are charities, and critically, may also “acquire by gift, purchase or any other means, and hold in trust for the Crown” (Saskatchewan 1995, c.U-6.1, s.7 [1]). Crown foundations are a unique hybrid because they are Crown agencies but can also be interpreted as public, tax-exempt charities. Like a parallel foundation, a Crown foundation operates alongside a charitable organization, and similarly provides funding only to that charity. Neither Crown foundations nor parallel foundations are explicitly identified in the *Income Tax Act*. They are created by statutes or by common law (Neely 1994, 31). Their recipient charities must therefore have been created by a

statute of the provincial or federal government (the Crown) to benefit from funding from a Crown foundation, as agencies of “her Majesty in right of Canada [or] Her Majesty in right of provinces” (Bromley 1992, 7).

Indigenous foundations are another noteworthy organizational type of foundation in Canada. (Unfortunately, they go beyond the scope of this study, but are an area ripe for further research). Briefly, they are state-owned enterprises (SOEs) (see Glossary), i.e., public foundations. They are not bound by the non-distribution principle, but are also tax-exempt. For instance, the Saskatchewan Indian Equity Foundation provides non-repayable loans for Indigenous people or communities to access capital for business start-ups. As per the Canadian legal context, entrenched in the treaties and the *Income Tax Act*, First Nations governments qualify as grant recipients, similar to the Crown, which makes for unique funding structures. These foundations create unique opportunities for the use of foundations to meet community development goals aligned with principles of self-governance. In the literature on third sectors, these types of innovations are more commonly referred to as social enterprises, but thus far the literature has overlooked these types of foundations. As of 2011, there were about 600 philanthropic funders of Indigenous charities in Canada, which represents about 6% of Canadian foundations (Circle on Philanthropy and Aboriginal Peoples in Canada 2014).

Scholars of the third sector observe that the lines between the public, private, and third sectors are overemphasized, perhaps even artificial constructs (Brody 1998; Elson 2010; Phillips and Smith 2011; Weisbrod 1978). Crown foundations and Indigenous foundations noted above are good examples of this overemphasis. There is good reason, therefore, to examine these kinds of innovations that are unique to Canada. In addition to Crown foundations, parallel foundations to universities and hospitals are also competitors in the global philanthropy for higher education, community development, and healthcare.

Phillips’ research also notes the strength of another specialized organizational form of Canadian foundations is the community leadership foundation. Similar to Crown foundations and Indigenous foundations, they are grounded in their connections to the local community (Phillips 2010, 2010b; Hoffstein 2007). Phillips suggests that the strength of these “place-based” foundations is rooted in their sense of community, but also in their “institutional logics” and their unique structures. Community foundations are unique in that they are both endowed foundations and public foundations focused on grant-making for a variety of charitable causes.

At the same time, they facilitate donor-driven giving, and act as conduits to the successful philanthropic investments of their “clients.” Phillips argues that sense of “rootedness,” increased collaboration among community foundations, and growing awareness of their roles, has increased the policy engagement capacity (2017).

Given the historical context noted above, and the ongoing issues raised about public trust in charities in Canada, in 2013 a survey was conducted by the University of Saskatchewan, published by Imagine Canada and the Muttart Foundation. The report, called *Talking about Charities 2013*, provides insight into current trust of charities based on telephone surveys of nearly 4,000 Canadians. The results indicate that 79% of Canadians still trust charities, and this number has been relatively stable for over a decade. Trust in different policy domains and across different types of charities varied however. Charities focused on health care or children’s issues were most trusted, with international and religious organizations trusted the least (2013, 9).

An interesting collection of cases in *Funding Policies and the Nonprofit Sector in Western Canada* provides much needed empirical data on granting policies for the non-profit sector in western Canada was recently published (Elson 2016). It documents cases of third-sector efforts related to housing, social services, culture, and economic development in the western provinces. The particular focus is on funding partnerships between foundations, corporations, donors, and governments for the delivery of social services. Contributors also explore the idea of third-party governance, describing the funding regimes for the third sector in the western provinces as a “patchwork system.” The specific structures vary based on the policy domain under consideration, the target population, the location, and available resources. This research is an important contribution because it focuses on provincial governments, which are the largest source of funding for third-sector organizations in Canada. This collection of cases enriches the existing understanding of non-profit organizations in Canada, which tends to focus on either NPOs’ struggles with respect to the NPM cutbacks of the 1990s, or the move toward social innovation and venture philanthropy (see Glossary).

One of the main questions in Canadian publications on the third sector and foundations is whether the role of the regulator, the CRA³, is to encourage third-sector organizations' civic engagement or simply to provide oversight and regulate tax incentives (Phillips 2010). Canadian authors, critics, and sector roundtables have all suggested a longstanding need for institutional change with regard to clarifying the role and mandate of the CRA vis-à-vis the third sector (Bridge 2002; Broadbent 1999; Brock 2003; Drache and Hunter 2000; Elson 2010b; Evans and Shields 2000; Phillips, S.D. 2010; Phillips, J., Chapman and Stevens 2001). Phillips suggests that the third sector in Canada is fundamental to “citizenship and democracy, as a community builder and social innovator, and as a force for economic development [but they] are largely absent from public discourse” (2010, 66). Evans and Shields reiterate the point, stating that in Canada, “neo-liberal restructuring assigns a key role to the third sector as an agent of the state in the production and delivery of ‘public goods’” (2000, 2). Skocpol, on the other hand, speaks from a statist perspective about foundations in the US and argues that public subsidies provided for foundations through tax breaks to wealthy donors are the root cause of concerns regarding the legitimacy of foundations' policy roles (2016). According to the statist perspective, the oversight role and focus of the CRA is necessary and appropriate.

2.6 Discussion of Analytical Approaches

Analytical approaches for understanding the roles of foundations vary considerably; they include popular literature, policy-elite studies, pluralist perspectives, policy networks, and institutionalism. Popular literature on foundations tends toward policy elite perspectives in either a starkly positive or negative light (Bishop and Green 2008; Fleishman 1999; Pallotta 2009; Reich 2016; Roelofs 2003; Stewart 1996). Policy-elite studies focus on the role of foundations as actors who comprise “part of the nation's power structure” (Abelson 2002, 49; Arnove 1980; Jacobs in Lagemann 1999). Pluralism emphasizes that a variety of stakeholders adds value to politics and policy making, complementing the power and perspectives of

³ The role of the CRA as regulator for the third sector is provided by the Income Tax Act and carried out by the Charities Directorate. To illustrate the regulatory role of the CRA, for example, if charitable status is revoked as a result of violating terms for the operations of charities under the Income Tax Act, “A charity is liable to pay a tax for its taxation year that is deemed to have ended on the day the Canada Revenue Agency issues a notice of intention to revoke the registration of the charity or on the day that it is determined that a certificate served under the Charities Registration (Security Information) Act is reasonable. The tax is payable on or before the day that is one year after the charity's taxation year is deemed to have ended” (CRA 2005).

governments. Policy network approaches emphasize the restricted, structured, and formal nature of policy discourse in democratic societies.

From a pluralist perspective, foundations compete alongside other policy actors for the attention of government and the public. Foundations' major roles are (1) to contribute ideas to policy agendas and (2) to contribute money to support good policy ideas and agendas (Hojer 2009; Stone and Garnett 1998; Kingdon 2003; Phillips and Smith 2011). Pluralist scholars examine the role of foundations in shaping government priorities, and the value they bring to policy-making processes. Pluralists tend to downplay inequities in terms of access to power between constituencies (Dahl 1982; Frumkin 2002; Mintrom 2005; Stone and Garnett 1998). They emphasize the roles foundations play in representing a diversity of groups, including minority perspectives in a majoritarian democratic environment.

The policy networks literature highlights the importance of institutions for understanding the third sector and foundations as organizations within it. As policy networks such as PFC or community foundation collaborations become more formal, they may also tend toward incrementalism (Jones and Baumgartner 1993; Lindquist 2006, 10; Phillips 2010, 2010b, 2017; Powell and DiMaggio 1991, 29; Zucker 1988; Béland 2016; Graddy and Morgan 2006, 6). The institutional contexts noted herein, which clearly affect foundations' policy roles and organizational forms in Canada, including through legislation, therefore require consideration in this study.

To bring these contrasting perspectives together into a coherent analysis for this study of Canadian foundations (Kingdon 1995), I will use the concept of policy entrepreneurship but apply it to the whole policy cycle (Lasswell 1956; Howlett 1998; 2007).

2.7 Summary

The literature on Canadian foundations suggests that they are engaged in public policy, but it inadequately address how, why, and to what extent or effect they are so engaged. The popular literature should be read with caution, as it tends to be quite polarizing. But it is still important because it informs the public and political discourse on foundations. Pluralist perspectives also have considerable potential for framing discussions of foundations' policy roles. Mainly, this review suggests that the literature on institutionalism can assist in conceptually unravelling the contexts, processes, and structures that shape foundations' policy roles.

3 CONCEPTUAL FRAMEWORK

The literature review that I conducted for this dissertation, along with my own additional research, insights, and experiences, have contributed to the development of the conceptual framework that shapes this dissertation. The framework provides a lens through which to interpret the data collected, as well as the analysis and discussion of the findings. It builds on key applicable frameworks and theories from public-policy and third-sector literatures.

According to Scharpf, “policy, by definition, is the intentional activities of actors who are most interested in achieving specific outcomes” (1997, 36). Therefore, the conceptual framework connects understanding between the roles of these actors to their operating contexts.

This conceptual framework is built on two main constructs: policy entrepreneurs and policy cycles. To address research questions for this study, the theoretical starting point is Kingdon’s notion of policy entrepreneur. In summary, my research questions, as presented in Chapter 1, are: who are foundations as policy actors? What resources do they have at their disposal to affect public policy making? When or at what stage do they participate in the policy cycle? Where do they participate in policy processes; in other words, what policy domains (areas) do they care about? Why do foundations participate in policy processes? Finally, what strategies do they employ to influence public policy making?

The literature review presented in Chapter 2 suggests that foundations in Canada may face public sector constraints when attempting to influence public policy. The US, UK, and Canadian research on foundations and think tanks also indicates that these policy actors are often described as policy entrepreneurs (Kendall 2000; Abelson 2000; Fleishman 1999; Stone 1997). In order to explore these two potentially divergent propositions, therefore, I combine the concept of policy entrepreneur with the policy cycles approach to unravel the selected case studies presented in chapters 5, 6, and 7.

I selected the concept of policy entrepreneur in part because it is widely used in the literature on foundations and think tanks in Canada. In this literature, think tanks are often confounded with foundations; with foundations being the funders of think tanks, or foundations themselves being identified as described as think tanks, or through misnomers, i.e. think tanks being called foundations even if they technically do not fit the definition (Abelson 2002, 2012; Lindquist 1989, 2006; Rich 2005; Stone 1996; Kendall 2000). In the public-policy literature, think tanks generally are characterized as NPOs that pursue policy interests or ideas on behalf

of particular stakeholders or for the benefit of the public. Their audiences are either specifically targeted to certain constituencies, to the general public, media, or the government (Stone 1997).

This point of confusion in differentiating between think tanks and foundations both within and across jurisdictions is understandable given their porous definitions. They are not mutually exclusive terms. Examples of foundations that are confused with think tanks in Canada include the following: the Canada West Foundation (established in 1973), a public foundation that describes itself as a think tank, and that researchers generally refer to as a think tank; the Fraser Institute (established in 1974), which is now supported by the Fraser Institute Foundation (established in 2003); and the Canadian Tax Foundation (established in 1946), which is a registered charity but not a foundation, according to CRA records (Canada 2017; Lindquist 1998).

The policy-cycle approach, the multiple-streams framework, and political institutionalism are three commonly used frameworks for the study of public policy and I use them to develop the conceptual framework for this dissertation (see Glossary).⁴ This chapter is organized into five parts. First, an overview of the usefulness of these frameworks for the study of public policy is provided. Second, the concepts of policy cycles, policy streams, and policy entrepreneurs are reviewed as they pertain to the study of foundations. Third, these insights are considered within traditions of institutionalism. Fourth, briefly explored is the notion that foundations may act as policy entrepreneurs in the Canadian context. And fifth, the key elements of the conceptual framework for this dissertation are presented.

3.1 Frameworks

Elinor Ostrom (2005) provides a useful overview of the levels of analysis that provide the basis for studies of public policy: frameworks, theories, and models. In this dissertation, I focus exclusively on frameworks because theories and models are meant to predict human behaviour and policy outcomes, which this dissertation does not attempt to do. In other words, both the literature review and the analytical approach outlined below are framework-based, rather than theory- or model-based. More generally, outlining the framework for this dissertation helps

⁴ Other public policy frameworks not considered here include punctuated equilibrium (Baumgartner and Jones 1993), the advocacy-coalition framework (Sabatier and Jenkins-Smith 1988, 1993), and policy diffusion (Berry and Berry 1990, 1992; Sabatier 2007, 9-11).

select the most useful elements of this existing literature to develop an integrated approach. This chapter therefore explores the interrelated and interconnected elements of the main frameworks that I have selected.

According to Ostrom (2005), a framework defines the common elements of phenomena or problems and the relationship between those elements. It is understood that a “framework is not a theory” (Scharpf 1997, 37) in the predictive sense of the term; in this dissertation, I aim to shed light on the cases and the research questions using an appropriate methodology, i.e., a comparison of three qualitative case studies.

As noted, I use the concept of policy entrepreneur to elucidate the roles of foundations as policy actors. The concept of policy entrepreneur, as developed by Kingdon (1984), was intended to describe the role of policy actors at the agenda-setting stage of the policy cycle within the multiple-streams framework (MSF). Zahariadis (2007) and Kingdon (1995) both have suggested that decision-making occurs when the agenda is set – that this is one process. I consider foundations’ potential influence across the different stages of the policy cycle, not only the agenda-setting stage.

However, in a later edition of his book, Kingdon (2003) appears to amend this stance and limits the analytical power of his framework to agenda setting. Other authors have since expanded MSF to decision making (Howlett, McConnell and Perl 2013; Zohlnhofer, Herweg, and Hub 2016). In the existing literature, other concepts have also been lifted from MSF and applied outside of MSF, though somewhat haphazardly and imprecisely. In this dissertation, I focus on the policy cycle rather than the MSF focus on agenda setting, because the latter excludes key components of the policy process for the study of foundations’ roles, which explains my decision to employ the policy-cycles framework rather than MSF.

3.2 Policy Cycles

The policy-cycles framework breaks down the policy-making process into a series of sequential stages: problem definition, agenda setting, policy formulation, implementation, and evaluation. Various authors (Brewer 1974; Lasswell 1956; Mintzberg, Raisinghani, and Theoret 1976) describe these stages in different ways. Originally, Lasswell depicted policy making as a linear process or series by which component parts called stages. Lasswell described that those stages were to: gather information, promote, prescribe, invoke, apply,

terminate, and appraise. This approach focused on the machinations of policy making inside of government (1956). I used the policy-cycles approach because it was clear that foundations had influence on agendas, so there was limited potential for added insight into foundation roles if this was my sole focus – therefore, I extended the analysis to the whole policy cycle.

Brewer built on Lasswell's work, improving the terminology he had used to describe the stages: invent, initiate, estimate, select, implement, evaluate, terminate. Brewer also allowed more room for the role of non-government actors (1974). Later iterations recognized that policies are not in fact terminated; rather, they experience feedback and are subject to amendments in the form of "rounds"; this understanding led to stages being conceptualized as part of the larger, more iterative, "cycle(s)" of policy making (Howlett, McConnell, and Perl 2013; Sabatier 1991). The stages framework helps organize complex policy processes into smaller steps to make its study more feasible, and to enable the isolation of component parts or contextual elements, such as institutions and actors (Howlett 1997).

This cycles/stages approach to the study of public policy has been successful because it is a logical model of policy making, and it assists in unravelling complexity in a broad range of situations. According to the policy-cycles framework, the policy-making process is vertical, temporal, linear, and orderly. It allows for the isolation of "sites" of policy making at different critical points (Birkland and DeYoung 2013, 176; Howlett 1997). It is also applicable to different levels of government, including municipal, provincial, and international governments (Howlett, McConnell, and Perl 2013; 2016).

Still, the policy cycles approach has the advantage of describing the whole policy process in an encompassing, albeit perhaps oversimplified manner (Howlett, McConnell, and Perl 2013, 2016). Its inherent logic also simplifies the problems of introducing complicating variables into the study of policy making, such as the consideration of the roles of non-government (NGO) actors like foundations. More than MSF, the cycles approach has also been applied internationally, so there is less concern translating it from the US to the Canadian context. MSF would add to the challenge of trying to explain an already complex empirical study with a complex conceptual framework. For the study of complex relationships between foundations and governments, this approach is better suited than MSF.

The procedural, rule-making focus of the policy cycles framework has come under scrutiny, however. Sabatier even refers to it as an "assembly-line" model and not reflective of

reality (1991). Policy making in reality is not strictly linear. For example, solutions can come before problems, or assessments before implementation (Kingdon 1984, 9-10). Additional critiques of the policy-cycles approach include that it does not identify causal drivers; that it can be inaccurate in terms of its description of the policy process; that it has a government and legislative bias; and, that it only focuses on one policy at a time, which is not ordinarily the case in reality (Kingdon 2003; Sabatier 2007, 7).

3.3 *Policy Streams*

Kingdon built MSF based on Cohen, March, and Olsen's (1972) work on the Garbage Can Theory (see Glossary). MSF suggests that three concurrent streams (i.e., the policy, the politics, and the problem streams) combine in policy making and that they can come together or be coupled together by policy entrepreneurs in the form of policy "windows," as Kingdon explains (Kingdon 1984, 1995, 2005). Policy entrepreneurs are able to open policy windows (opportunities) in order to access government policy agendas.

MSF shifted the procedural focus of the cycles/stages view of policy making to a more organic perspective. According to this framework, policy processes are more permeable, more open to feedback, and more subject to the influence of other non-governmental actors and outside events. MSF facilitated a shift away from linear, logical, systems-based, procedural, and temporal understandings of policy cycles. This move away from the "systems-thinking" inherent to the cycles model has provided valuable insights into policy making, although, to be fair, the stages and the streams depictions of policy making are both highly idealized conceptualizations.

When I started this research, MSF was more intuitively appealing. The concept of policy entrepreneurs seemed very much applicable to my work in that it emphasizes the inherent complexity of policy processes: "its occasional chaos, and sometimes highly contingent nature – facets sometimes lost in the cycles approach" (Howlett, McConnell and Perl 2016, 2). However, in application it did not prove useful for explaining the complex roles of foundations or for unravelling the complicated chronologies of the selected cases. I therefore switched to policy-cycles framework, which allowed me to more accurate identification of the locus of foundations' influence at different stages in the processes.

More than other frameworks, MSF also downplays the role of institutions (Béland 2016), which are a critical component of this study; this is due in part to evidence of policy transfer across national boundaries, namely from the US and UK to Canada. Given the limited literature on foundations in Canada, there is a need for scholarly comparison across these jurisdictions, which requires us to pay close attention to the effects of domestic institutions on public policy. Several authors have made attempts to use the streams and policy-cycles frameworks together in order to provide “complementary and cumulative” insights into the study of policy making (Howlett, McConnell, and Perl 2015, 2016). I will not attempt such a feat. Rather, I borrow the concept of policy entrepreneur and use it to understand foundations’ roles across policy cycles, in the Canadian context.

3.4 Policy Entrepreneurs

Foundations are epitomized by Kingdon’s definition of policy entrepreneurs in their “willingness to invest their resources – time, energy, reputation, and sometimes money – in the hope of future return” (Kingdon 1984, 204). The present research, though, is especially concerned with the policy roles of foundations beyond simply allocating resources. The focus beyond grant-making policy influence is why it is important to consider other types of foundations, such as Crown foundations or parallel foundations (see Chapter 6).

The concept of “entrepreneur” has been used in US studies of foundations, though it is interpreted more loosely in that context (Anheier and Daly 2006; Badelt 1997; Ferris and Mintrom 2002; Fleishman 2007; Frumkin 1999; Hammack and Anheier 2013; Lageman 1999; Leat 2016; Pallotta 2008; Tompkins-Stange 2016). It has also been referenced in US, UK, and Canadian studies of think tanks. As noted, the definitions of think tanks are often confounded with those describing foundations. Therefore, it is reasonable to anticipate that there may be findings from the think tank literature that might be useful for the study of the policy roles of foundations.

Alongside the policy-cycles approach, the concept of the policy entrepreneur is key to this dissertation. Stone, in her study of the role of think tanks in transnational policy transfer, indicates that “They transfer the ideas and ideologies, the rationalizations and legitimizations for adopting a particular course of action... However, to see policy transfer occur, these organizations are dependent on formal political actors... They are better described as policy

entrepreneurs for transfer” (Stone 2000, 66). Foundations and think tanks are often discussed in parallel, the former being the chief funder of the latter. The organizational types are sometimes confused, either in practice or in study (Bird 2015; Davies 2004; Meyerson and Wernick 2012; Rich 2005a; Abelson 2002, 2016; Roelofs 2003). In reference to the concept, in their popular book called *Philanthrocapitalism: How the Rich can Save the World*, Bishop and Green even go so far as to refer to these actors as “philanthropreneurs” (2008). Much of their analysis focuses on the top private grant-making foundations of the 21st century.

Policy entrepreneurs, who can be within or outside of government, can have privileged access to policy deliberations. Foundations are among these privileged actors. Significantly, policy makers who work within government often pursue their own agenda and interests, and not just those of the government (Baumgartner and Jones 2010; Howlett, McConnell and Perl 2015). Policy developments brought forward by entrepreneurs, though, still require formal political support. With respect to tax policy, in Canada this means that the support of the prime minister or the minister of finance is generally required. In addition, as has been established for think tanks, support of the civil service is also needed. “The details concerning the wording of new legislation or the creation of new policy-delivery agencies is in the hands of government officials” (Stone 2000, 66). At least in the context of a majority government, decision making in the Canadian context (Westminster political system) is straightforward if a majority party backs the proposal, but it is woefully constrained for an opposing actor to the policy proposal (Howlett 1997; Howlett, McConnell, and Perl 2013; Zohlnhofer, Herweg, and Hub 2016).

Although the original MSF only considered the concept of policy entrepreneurs for agenda setting, this concept can also be applied to decision-making and the policy cycle as a whole (Kingdon 1995; Zahariadis 2007). The implication is that, in keeping with the stages heuristic, policy entrepreneurs are setting policy agendas but they can also shape public policy more generally. The potentially wide-ranging scope of foundations’ roles suggests that the application of the notion of policy entrepreneurs alongside the policy-cycles framework is appropriate.

It is, however, important to note that one of the critiques of Kingdon’s discussion of policy entrepreneurship is that the concept has not been sufficiently developed. This critique can be readily addressed in the interdisciplinary literature on the topic. At the broadest level, the conventional definition of an entrepreneur is “an agent who enables or enacts a vision based

on new ideas in order to create successful innovations” (Schumpeter 1950, quoted in Dacin, Dacin, and Matear 2010, 44; also, see Glossary). New developments in the management literature build on this definition and extend action beyond the private sector to the public and third sectors as well (Dees 1998; Drucker 1985, 1993; Perrini and Vurro 2006). Policy entrepreneurs “seek policy changes that shift the status quo in given areas of public policy” (Mintrom 2015, 103-104; also, see Glossary), something that foundations do in Canada, as this dissertation suggests.

3.5 Institutions

Developments in both the stages and streams frameworks have identified, but not necessarily paid sufficient attention to, the fact that institutions set the parameters for private and non-government actors to organize and potentially influence policy making (Elson 2011; McRae 2011). For instance, some scholars argue that established institutions are especially important at later stages of the policy cycle, where governments exert more control (Baumgartner and Jones 2010; Howlett 1997; Zohlnhofer, Herweg, and Hub 2016, 244). The corollary for foundations is that, in a parliamentary system, given the strength of majority governments, energy is wasted once a bill has received a first reading in the House of Commons (Abelson 2016, 131). Institutional variations particular to Canada (in comparison to the US and UK) are therefore important to consider when attempting to apply potential lessons regarding the roles of foundation actors in policy processes (Elson 2009, 2010a, 2010b; Phillips 2007; Anheier and Daly 2007; Phillips and Rathgeb Smith 2011).

In keeping with Baumgartner and Jones’s (2010) observations noted above regarding the varying influence of organizations across policy cycles (2010), in two studies of think tanks across Canada and the US, Abelson notes that the policy roles of think tanks (which he sometimes confounds with foundations) are more prominent at different stages of the policy process. Abelson indicates that think tanks were more involved at the problem-definition and the agenda-setting stages (2002). However similar foundations and think tanks may be, it is still prudent to consider foundations as a separate topic of study, apart from think tanks. In addition, these particular organizations may display varying roles in different contexts, i.e. in Canada vs. in the US.

Howlett's research indicates that in Canada, opportunities to access government agendas occur at more regular intervals than they do in Kingdon's US-based research, often aligning with the budget cycle (1997; 1998). Canada's parliamentary system also reinforces the need for strong party unity, which results in a high degree of centralization in decision-making, thereby constraining non-government actors' access. Foundations' access to decision makers and policy makers also depends on the political party in power. To the degree that the Canadian context is centralized, it contrasts with the more decentralized and less restrictive structures for individually elected officials in the US party system. The US political system provides more opportunities for think tanks (or foundations for that matter) to influence policy by simply casting as wide a net as possible, given how diffuse power is in the American system (Abelson 2005, 753). There are by contrast fewer opportunities for access in the Canadian system due to strong party discipline and centralized executive and legislative power (Abelson 2005, 753). This suggests a need for more organized, proactive planning on the part of non-government actors to effectively influence policy making in Canada.

We might extrapolate from this literature and our understandings of the behaviours of foundations in Canada discussed in Chapter 2 that perhaps foundations in Canada collaborate with others in order to gain better access to decision makers. It also follows that foundations may "embrace elitism as a necessary strategy" to make impact with the comparatively limited (vis-à-vis government) resources at their disposal, which is more pronounced in Canada than in the US (Hammack and Anheier 2013, 73). More practically speaking, foundations and charities in Canada are further constrained in their potential policy engagement because they are only allowed to spend 10% of their annual revenues on advocacy (though the concept of advocacy is ill-defined). Alternatively, Phillips asks, if it is not external constraints such as these that limit third-sector organizations' success at policy engagement, is it the limited resources available, or is it simply "the fact that they are not very good at it" (Phillips 2010, 66)? Alternatively, perhaps the development of foundations in Canada contributes to their effectiveness at influencing the policy process. In addition, institutional differences may also play a part in the potential applicability the concept of policy entrepreneurs in Canada.

A summary of the possible application of these concepts is provided below. Kingdon's MSF focused on the US specifically. To some success, several authors have attempted to adapt the concepts of policy windows (and by extension policy entrepreneurs) to the study of policy

making in Canada. Some insights into the transferability of the key elements of this conceptual framework are as follows:

- Of the four types of policy windows that Kingdon identifies (routine political windows; discretionary political windows; spillover problem windows; and, random problem windows), a Canadian study found no evidence of random windows, and that discretionary windows were rare, and routine policy windows were more prevalent, as related to government procedures and cycles, such as the budget cycle (Howlett 1998, 515).
- Howlett raises more general questions about Canadian policy processes. Howlett asks, “Why do issues appear on government agendas and then disappear prior to implementation? Is this part of the politics of policy formulation, decision making, or implementation, or all three? What does it tell us about the actors involved in these processes?” (1998, 517). This suggests there may be similar patterns to look for in this study of foundations.
- Abelson highlights in his research that think tanks in Canada and the US both have policy influence, but “in different ways and at different stages of the policy cycle” (2002, 4). For example, think tanks like the Heritage Foundation have played active roles in presidential campaigns in the US. Such active support for election campaigning is not permitted in Canada, where they are more active at other stages of the policy cycle, especially “when the parameters around policy debates are being framed” (2002, 4). Canadian think tanks also tend to work more closely with senior civil servants and identify the most important issues in policy debates. Although they are perhaps less visible in policy debates than their US counterparts, that does not necessarily mean they are less influential (2002, 7).

Sociological institutional research on the third sector focuses on power structures involving donors of private funds invested for public purposes (Douglas and Wildavsky 1983; Mauss and Halls (2000); Salamon 1987, 2002). The framework suggests that institutions are comprised of more than simple organizational structures, i.e., they are political structures. Nor are they defined simply by their historical contexts. Rather, according to Powell and DiMaggio (2012), they are the product of people’s value systems, norms, beliefs, and objectives. Similarly, Douglas and Wildavsky (1983), Mauss (1954), and Godbout and Caillé (2000) explore giving

as a cultural phenomenon, where self-interest is overcome, creating solidarity in a world pervaded by consumerism. Other authors emphasize the connection to organizations that people feel when giving (Akerlof and Kranton [2010] refer to this as organizational identity; for March [1991], it is an organizational code).

The unique attributes of organizations in the third sector such as foundations result from institutional constraints including the non-distribution of profits, altruism, and the nature of presidential and parliamentary democracies. Lindquist, in a study of Canadian think tanks and foundations, notes that their effectiveness at influencing the strategy or priority of government depends on their entrepreneurialism and their capacity to build robust organizations in difficult environments (2006, 2).

At the same time, other studies reveal similarities across jurisdictions than might be identified despite significant differences (Green-Pederson and Mortensen 2013, 170-173; Anheier and Daly 2007). A comparative study of the evolution of think tanks across the US and UK, for example, found few differences based on external factors, i.e., parliamentary vs. presidential democracies (Stone 1996; Stone, Denham, and Garnett 1998). However, Lindquist observes that, in Canada, there has been less foundation involvement in the start-up of the foundation sector than in the US. There are examples, like the Maytree Foundation's support for the establishment of the Caledon Institute for Social Policy, or the Donner Foundation and Max Bell Foundation's contributions to social causes, including funding think tanks (2006, 7). Ostrom also offers the argument that a framework identifies the structural factors present in all institutions across jurisdictions, but that their characteristics (rules, norms and strategies) vary across those jurisdictions (2007, 26-27). So, when examining foundations across the third sector, we might expect to see some commonalities.

In a similar vein, different disciplinary traditions emphasize foundations' altruistic, utilitarian, economic, or efficiency motives (Becker 1981; Prewitt 2006). Utility is obtained from making a gift that benefits the recipients or the donor. Emphasis on returns to the donor is understood as reciprocity (Mauss 1954; Trivers 1971), and emphasis on the recipient is understood as altruism (Arrow 1972; Titmus 1970). Marketing and management literature indicates that individuals have relationships with organizations and that the extent of the investment depends on emotional connections (Bishop and Green 2010; Dobkin Hall 2006; Hall and Reed 1998; Hirshman 1970; Pallotta 2008). Appeals to these different motivations

will vary somewhat between individuals and jurisdiction, but they are all ways of explaining the commonalities of organizations and individuals working from within the third sector.

These observations are also supported by Béland (2016) and Scharpf (1997). Building on Kingdon's concept of policy entrepreneurs, Béland suggests that a better understanding of the interplay between institutional and economic positions of policy actors could help explain how policy entrepreneurs shape their interests and develop their policy positions (2016, 139). Scharpf calls this a "framework of actor-centered institutionalism [which] emphasizes the influence of institutions on the perceptions, preferences, and capabilities of individual and corporate actors and the modes of their interaction" (1997, 38). As such, understanding the policy roles and styles of foundations as policy entrepreneurs requires consideration of their contexts. In reference to the policy roles of foundations in Canada, Phillips refers to this characteristic as "policy styles" (2007, 501). For instance, Lipset suggests, "If one society [Canada] leans toward communitarianism – the public utilization of resources to fulfil group objectives – the other [US] sees individualism – private endeavor – as the way an 'unseen hand' produces optimum, socially beneficial results" (Lipset 1990, 110). This implies perhaps a more welcoming environment for policy entrepreneurs and foundations in the US than in Canada.

Formal decision-making structures enable and constrain how actors can navigate policy engagement for successful acceptance of their pet policy proposals. Béland observes that formal institutions determine structures for decision making, i.e., which actors must be convinced, or which majorities won (bicameral, tricameral, presidential, parliamentary, etc.) (2005, 8). Different levels of government, different cross-national settings, and different policy domains shape the roles that policy actors are able to play. This emphasizes once again that actors (individual or corporate) operate within institutional contexts.

The literature on institutionalism can assist in sorting through the complexities for the study of the decision making for foundations in Canada: i.e. rational choice, sociological, and historical institutionalism (see Glossary). According to rational choice institutionalism, the existence of the third sector is a result of market or government failures (see Glossary; Lecours 2005, 17, 27; Salamon 1998). Foundations as policy actors may have a legitimizing effect on charitable organizations by reducing information problems for consumers. Kryvoruchko notes,

for example, that individuals may look to foundations to provide an indication of where they should donate:

Individuals may face time and financial constraints to learn about charities. Foundations, on the other hand, can more easily absorb the cost of gathering such information. Moreover, foundations have better access to information about charities from reviews of charity grant applications. (2013, 6)

But foundations play a subsidiary role to the private and public sectors. By conferring legitimacy to an endeavour, foundation funding or involvement can assist individuals and governments in determining where to invest by alleviating information problems in the third sector (Coase 1960; Loasby 2002; March and Olsen 1989; Simon 1950). In other words, foundations may have a legitimizing effect on charitable organizations by reducing problems related to information accessibility (Anheier and Seibel 1990; Kryvoruchko 2013; see Glossary).

It follows, therefore, that paying close attention to institutional factors such as the national context, particular policy actors at different stages of the policy cycle, is a valuable empirical research endeavour for the study of foundations. As Scharpf states, “Once we know the institutional setting of interaction, we know a good deal about the actors involved, about their options, and about their perceptions and preferences” (1997, 41). While we cannot determine policy outcomes by simply understanding the preferences and perceptions of individuals, we can improve our understanding of public policy by examining an organization’s relationship to a plurality of actors within them (44).

3.6 *Conceptual Framework*

I adopt the concept of policy entrepreneur supplemented with institutionalism and explore these cases across the policy cycle in order to assist in elucidating the roles of foundations as particular non-government policy actors in this study. The research propositions are as follows. Policy entrepreneurs are able to influence decision-making processes generally, not only agenda-setting, as Kingdon suggests (1995). The policy-cycles framework is used to assess foundations’ potential influence over the whole policy cycle (Abelson 2013; Lindquist 2004). As discussed in Chapter 3, the stages and streams frameworks are supplemented by an analysis

of the institutional contexts within which policy entrepreneurs such as foundations operate (Frumkin 1999; Hammack and Anheier 2013). In addition, the context for this study of foundations differs from the majority of the available research because I consider foundations' roles in Canadian public policy, rather than US or British policy processes.

It is common for the concept of policy entrepreneur to be lifted from MSF and applied to other frameworks. I do this here by using it in the context of the policy-cycles framework, which underlines the role of institutions (Baumgartner and Jones 2010; Howlett, McConnell and Perl 2015; Zohlnhofer, Herweg, and Hub 2016). It is important that the potential policy roles of foundations are considered in this research across the stages of policy cycles – and not just in the agenda-setting stage – because their involvement may vary at different points. In this thesis, I suggest that, as policy entrepreneurs, foundations must consider institutional contexts in order to be successfully in their policy pursuits.

3.7 Summary

This dissertation seeks to understand where, when, why, and how foundations influence (or not) policy making in Canada. The conceptual framework suggests that, in order to shed light on foundations' policy roles, it is imprudent to limit the examination of their participation in policy processes to one stage of the policy process, i.e., the agenda-setting stage. Foundations have different priorities, different strategies, and operate in different policy fields. Therefore, we should expect to uncover differences across the policy cycle and across the three cases explored here. For these reasons, I use the policy-cycles framework supplemented by the concept of policy entrepreneur and an attention to institutions.

4 METHODOLOGY

The purpose of this research was to examine the role of philanthropic foundations in public policy-making in Canada. In order to expound the roles of foundations, the following research questions were posed (see Chapter 1):

- (1) Why did foundations engage in policy making in these cases?
- (2) What were their strategies and how effective were they?
- (3) How receptive were governments to their influence, ideas, and agendas?
- (4) When, or at what stage of the policy cycle, were foundations most effective?
- (5) What were the barriers and enablers of foundations' participation?

A descriptive, qualitative, multi-case research study was developed to shed light on these issues. Semi-structured interviews with 40 policy actors and experts were conducted over the course of a 36-month period. This was complemented by extensive reviews of primary-source documentation, archival materials, and secondary research. The research design and analysis involved explanation building, constructing a thick-descriptive chronological narrative, discovering and recording the findings, and building the theoretical contribution through an iterative analytical process.

This chapter describes the research methodology for this study and presents a synoptic overview of the cases. The chapter then focuses on the rationale for the research design, and for the selection of the cases and offers a summary of information requirements; data collection methods, including research interviews; and construct validity.

4.1 *Cross-Unit Case Studies*

A case study, according Gerring, is “an intensive study of a single unit with an aim to generalize across a larger set of units... a unit connotes a spatially bounded phenomenon – e.g., a nation-state, revolution, political party, election, or person – observed at a single point in time or over some delimited period of time” (2004, 341-342). A cross-unit case study compares findings across several units. This approach has the added benefit of increasing the breadth of the research, providing added representativeness, allowing researchers to infer causal effects or insights in a probabilistic way, and has the potential to be confirmatory (theory-testing), as opposed to simply exploratory. The latter is not presented in this study, although the potential was considered.

Three national, cross-unit cases are presented in the chapters that follow: the first considered the role of private foundations in fiscal policy making in the late 1990s and early 2000s through the public-policy case of the capital gains tax exemption of publicly listed securities that the Liberal government introduced in 1997 at the behest of some vocal policy actors in the third sector. As such, it was a well-known case in the policy community. What made this case intriguing from a public-policy research perspective was the exclusion of private foundations from the qualifying recipients in the original legislation. This severely hampered their ability to compete in the fundraising market. Thus, a lobbying campaign to amend the policy was undertaken over the next decade. The case reveals that there was a contrast between foundations' lack of engagement at the agenda-setting stage of the policy cycle, followed by significant efforts to effect policy change after implementation, at the evaluation stage.

The second case considers the role of Crown foundations in post-secondary education in the 1990s. This was a little-known case with potentially far-reaching impacts. The case was identified later in this research project in one of the interviews conducted for the tax-policy case study when "a smart tax lawyer" noticed that the Crown, and by extension Crown foundations, had no limits on tax exemptions granted for lifetime giving. Given the national scope, and the potential to examine the roles of foundations across the provinces, this case replaced an earlier chapter that focused at the organizational level of the University of Saskatchewan. In addition, Crown foundations are a unique organizational type when it comes to foundations, and therefore an area for future research that compares foundations cross-nationally.

The last case study considered the role of the Bill and Melinda Gates Foundation (Gates Foundation) in health-research policy in the 2000s. At the agenda-setting stage of this policy case study, it appeared that the foundation had a great deal of influence on the Canadian government's policy agenda. The intriguing characteristics of this case were twofold. First, the Gates Foundation attached a preconceived policy solution (vaccines) to a highly complex health-research issue, i.e., HIV/AIDS. Although there was no ready vaccine at that time, there was some promise in the scientific community. Second, the influence of the foundation appeared to increase in the later stages of the policy formulation, and in fact, the media reported (Ashton 2011; McCoy and McGoey 2011) that the partners (the government of

Canada and the Gates Foundation) drastically changed course. There were contrasting viewpoints as to why this happened. The Gates Foundation's apparent influence on the policy-making process raised alarm bells for the public and garnered media attention. It also posed an interesting research problem: what constitutes undue influence?

While these are indeed historical examples, there are few such case studies of foundations in Canada. These cases were selected partly because they were time bound. More recent cases would present the challenge of being open-ended. This would risk not having a fully clear understanding of the roles of foundations through the whole policy cycle.

4.2 Research Design

The case-study approach is the starting point for the qualitative research design in this dissertation. Whether used in anthropology, sociology, political science, or public policy, the case-study approach and qualitative research more generally, lends itself well to descriptive field research. Moreover, cases generate knowledge. In this research design, the cases generated deep, context-dependent knowledge that highlighted the complexities of both policy making and foundations in Canada through the “force of example” (Flyvbjerg 2006, 229). According to Babbie (2007), a qualitative method enables research without “a precisely defined hypothesis to be tested; provides an approach to observing social phenomena in their natural environment; and is well suited to the study of social processes over time” (286–7). This exploratory research strategy also facilitates building on the selected, existing, theoretical framework (as discussed in Chapter 3).

When research projects like this one are searching for more extensive explanations (e.g., the roles of particular types of organizations across a country), greater breadth of cases balanced with “boundedness” is recommended, suggesting that a cross-unit case study method is appropriate. In terms of breadth, broadly speaking, foundations are the focus of this research. Three types of foundations are considered: public Crown foundations; Canadian private foundations; and one American private foundation. In terms of boundaries, the scope of this research is national in scope and is focused on federal and provincial-level policies, and the policy domains and cases selected (Gerring 2004, 347).

Case studies have been an effective research method for the study of philanthropic foundations in the United States (Berman 1983; Brison 2005; Lagemann 1985, 1992; McCorry

and McGoeys 2011; Davies 2004). They are also the main research method used for the multiple-streams framework (Ackrill and Kay 2011; Herweg and Zohnhofer 2015; Ridde 2009). Yet, based on my exhaustive searches, there are at present only a few academic case studies of foundations' engagement in public policy in Canada (see footnote 1). This dissertation will help fill this gap in the literature. The extended, descriptive, cross-unit case study method used here has the advantage of exploring the similarities and differences between these cases to reveal something about the main concepts they have in common (Babbie 2007, 293-302; O'Leary 2004, 99). The argument I have presented, based on my own and others' research, thereby contributes both empirically and conceptually to the literature.

All of that said, there are commonly held critiques, as well as some misconceptions, about case-study research methods. Among these is the issue of generalizability. Case study research is not necessarily an appropriate method for testing theory or predictive hypotheses, except in instances when one arrives at, or sometimes stumbles upon, a critical finding in the case that may contradict a well-known theory, for instance. This generally occurs in extreme and unique circumstances (Gerring 2004). However, the goal of this type of research is not to generalize the results of hypothesis-testing. The case-study method is an appropriate method for examining propositions or hypotheses in the "softer" sense of the term. When research questions are context dependent, as they were in this study, context-rich methods are best suited.

There are, of course, challenges and limitations to alternative approaches, as indicated by the research on think tanks and foundations. For instance, quantitative research on the number of media hits a particular think tank receives have been used as a proxy to assess their influence. But influence on whom? For what? More in-depth analysis is required to answer those questions. Media scans are a more useful metric for internal evaluations of think tanks and foundations. How much media attention a think tank or a foundation receives is actually a measure of attention, not policy influence (Soroka 1999).

Other measures focused on access to government include quantitative evidence of foundation participation in government committees, meetings, and other consultations (Abelson 2005). However, this still does not speak to the weight that policy makers, decision makers, or the electorate place on the input of foundations. Government-centred approaches to research would not have provided the answers to the research problem I explore in this

investigation (Howlett 1998; Soroka 1999) (how and why do foundations engage in policy making in Canada, and why should we care?). Surveys might have assisted in this regard, but given the lack of time and resources available for a doctoral dissertation, such a study would not have been feasible, especially given the lack of such studies in Canada. There are very few examples of successful survey research in this regard. More of the work on the impact of policy entrepreneurship has been conducted through case study research.

There are many case studies of Canadian charities' roles in public policy, but they do not examine foundations specifically. Two Canadian scholars comment on this research lacuna: "There is, in our view, a chronic lack of information regarding either the collective or individual impact of grant-making foundations [see Glossary] in Canada" (Elson and Hall 2015, 4). Susan D. Phillips' work is an exception. Phillips has contributed to the research on community-based foundations and what she refers to as community-leadership foundations and place-based philanthropy in Canada (June 2015; April 2012).

There are, as well, studies on think tanks in Canada that have employed the case study approach (Abelson 2005; Lindquist 1989, 1991, 1998; Stone 2004). As discussed in Chapter 3, there are enough similarities between think tanks and foundations to suggest that research methods may be applicable across these organizational types. Studies of policy entrepreneurs also use this method (Abelson 2002, 2016; Birkland and DeYoung 2013; Davies 2004; Stone 2000a, 2000b). Finally, research on the applicability of MSF in Canada has also been conducted (Charles 2011; Howlett 2007; Elson and Hall 2015; Lindquist 2004) and provides particular insights that both align with and contrast Kingdon's findings in the US, and suggest that this is an area ripe for future research.

4.3 Case Selection

The research questions drive the research methods (i.e., the qualitative approach). To answer my research questions, cases were intentionally (as opposed to randomly) selected through a review of federal and provincial public records, news releases, media reports, and direct observations (O'Leary 2004; Yin 2009, 26). This is referred to as an "information-oriented selection strategy [which] maximizes the utility of the information in small samples" (Flyvbjerg 2006, 230). The case presented in Chapter 5 on the discriminatory treatment of private foundations in the capital gains tax exemption was selected for the apparent lack of

engagement on the part of foundations, or their lack of success at such engagements. This contrasted with the rationale for the selection of the cases presented in Chapters 6 and 7, where foundations were either the policy instrument or a main player in the policy process.

To support this selection process, several criteria were borrowed from the scholarship on think tanks as well as research about foundations in the United States (Lindquist 1989; O’Leary 2004, 109; Rich 2005; Tupper 1993). The think tank literature suggests that there should be differences between policy actors or organizations, and that policy questions should be relatively current, something that was more difficult to achieve. Different actors’ roles in the same policy process might be compared or separate cases might be contrasted. Cases selected had to be reasonably similar in terms of purpose, scope, and timeframe; be a manageable size for analysis; and comprise both a clear policy agenda and sufficient evidence of foundation engagement (O’Leary 2004, 117).

A policy process was defined as distinct if it demonstrated “policy formation, agenda-setting and decision-making” (Zahariadis 2007, 65). The latter stages of the policy-making process were considered insofar as they related to changes to the original agendas. It was also important to have variety amongst the cases in order to “obtain information about the significance of various circumstances of each outcome” (Flyvbjerg 2006, 230). The three cases that were identified allowed for a comparison between the roles of smaller and larger foundations, and private and public foundations, in both federal and provincial policy making in three distinct policy domains.

Lessons on successful case selection could also be drawn from the research on American foundations. A survey the Foundation Centre conducted in 2010 revealed that the policy area foundations were most involved in was education and youth. The second most prevalent policy areas for foundation involvement were the environment, health, and civic engagement. The survey also found that foundations emphasized particular strategies when engaged in policy: they are more likely to focus on fostering and accelerating change and improving public education and information than on government accountability and transparency or exploring research and training (Foundation Centre 2010). This helped in sampling foundation engagement in policy making across Canada.

The cases selected (and summarized above) covered recent but distinct periods in federal politics: the Liberal majority government (1993–2003) under Chrétien, the Liberal

minority government (2003–2006) under Martin, and the Conservative minority and majority governments (2006–2016) under Harper (Laforest 2009, 1–14). They also cover transitions in government in Saskatchewan between the end of Grant Devine’s Progressive Conservative (PC) government (1982–1991) and the New Democratic Party (NDP) governments of Roy Romanow (1991–2001) and Lorne Calvert (2001–2007). These overall timeframes ensured that factors such as how Canadian politics might affect foundations’ policy engagement could be considered. In addition, 1997 marked the year that the Voluntary Sector Roundtable convened the Panel of Accountability and Governance in the Voluntary Sector. (Significant research has already been conducted on the initiative [Canada 2011; Elson 2010a and 2009; Phillips 2009; Laforest 2009]). This was a pivotal time for collaboration between the third sector and the public sector in Canada. This made the tax case particularly appealing.

The CRA’s definition of a charitable purpose was used to narrow down the policy areas under consideration. While foundations may engage in any policy area, they can grant their funds only to qualified recipients, i.e., charitable organizations. According to the CRA, “The courts have identified four categories of charity: the relief of poverty; the advancement of education; the advancement of religion; and certain other purposes that benefit the community in a way the courts have said is charitable” (CRA 2009). This investigation used the CRA’s parameters to identify potential research topics.

Next, policy agendas that had some longevity were considered, but the scope had to be reasonable. Considerable longevity was necessary to ensure that an array of actors had the opportunity to engage in the processes. Moreover, due to complications stemming from special CRA restrictions on the eligibility of international gifts for tax credits, the geographical scope of the research was limited to donations given to Canadian organizations (Innes 2006). However, international foundations that had an impact on domestic policy issues were included (Lindquist 1989, 29-31; Stone 2000b). Consideration was also given to policy areas where apparent differences in public, media, and government attention were evident, and where the types and levels of government engagement varied. Moreover, cases where there was accessible data (such as committee records, media reports, key contacts, or secondary-source data) were a consideration. Though other leads were traced, some led to dead ends due to the lack of evidence available.

4.4 Information Requirements and Data Collection

The main data-collection approaches for this dissertation were document collection and research interviews with policy participants and experts. Document collection involved the identification, procurement, review, examination, and analysis of different texts. This was a key source of primary research data (O’Leary 2004, 176). The information was collected from a variety of primary and secondary sources: books, articles, newspapers, legislative proceedings, reports, letters, emails, and correspondence with participants.

Surveys and reports from Statistics Canada, PFC, Imagine Canada, and other organizations were also used in an environmental scan of foundations. In addition, legislation, policy documents, legal decisions, parliamentary debates, committee minutes, and CRA reports concerning the selected policy areas were collected and analyzed. Foundations’ policy strategies were surveyed as they related to the policy areas through reviews of websites, annual reports, strategic documents, transcripts of oral reports, and grants awarded for the selected cases.

I also made a freedom of information request to the Canadian government on the Gates Foundation (Chapter 7) to access the memoranda of agreement (MOA) between the Gates Foundation and the government of Canada, which were not publicly available at the time. In addition, though Hansard records referred to two reports on the CHVI pilot-scale facility, neither was available to the public (Canada 2006, 2010). The 2012 public records also indicated that foundation and government officials were in regular contact. The FOI request was pursued to substantiate this initial observation.

The process of procuring these federal records took just under three months – January to March 2012. The Access to Information and Privacy (ATIP) office promptly acknowledged receipt of the application on the day the request was submitted. The assigned ATIP officer provided information on the process for identifying and accessing records, applicable fees, and timelines, and offered advice to expedite the request by providing a listing of previous requests that had been fulfilled; this officer also assisted in narrowing the scope of the request to decrease the time to completion. In the end, I received more than 600 pages of material both by email and in hard copy from Health Canada and the Public Health Agency of Canada (PHAC). The data included memos, emails, PowerPoint presentations, briefing notes to ministers and senior staff, MOAs, internal evaluations, progress reports, committee minutes, meeting agendas

and minutes, records of teleconferences between the partners, records of steering committee and sub-committee proceedings, administrative forms documenting correspondence between the partners, budgets, records of the funding program structure, consultant reports, and redacted submissions from PHAC to cabinet.

4.5 Interviews

Individual research interviews provided a rich data source. The recordings, hand-written notes, and transcripts served as primary data. Questions and analyses were focused at the organizational level; the individuals interviewed represented their experiences within their organizations. The contributions to my research of those interviewed were about the content of their work at these organizations, not about their personal lives. For that reason, the study was exempt from ethics approval from the Behavioural Research Ethics Board (Beh-REB). Articles 2.1 and 2.5 of the Tri-Council Policy Statements (TCPS) state, “the research may involve interaction with individuals who are not themselves the focus of the research in order to obtain information. Such individuals are not considered participants for the purposes of this policy” (TCPS quoted in Rigby 2012). While the dissertation was considered exempt from Beh-REB approval, according to the ethics committee, I, as the researcher, was still responsible for conducting the research (particularly the interviews) in an ethical manner and I would have to demonstrate to my committee and to the College of Graduate and Post-Doctoral Studies that I had conducted research ethically.

Upon review of available documentation, I identified senior officials, concerned foundations, government agencies, and other policy actors in the selected cases as potential interview candidates. Some others were identified on a referral basis. The goal was to conduct a minimum of 10 to 12 interviews to support the findings in each case. Overall, for this study, 61 interviews were requested, and 44 were granted, for a response rate of 70%. In the end, 42 interviews were conducted with 40 people (two people participated in the same interview, and I interviewed them twice; see Appendix A for details on interviews). On several occasions, interview requests were accepted, but scheduling proved impossible. Politicians’ participation proved particularly difficult to secure. For each of the cases, at least nine case-specific interviews were conducted, in addition to 14 general interviews (further information on the interviews is provided in Appendices B and C). Interviews were conducted in confidence as a

result of considerations regarding ongoing employment and the maintenance of professional, personal, and political relationships. Also because of the relatively recent nature of the selected cases, some of those interviewed could be at risk of losing their jobs if their names were released. Some of the issues considered in the cases also continued to be debated by government officials, and were therefore highly political. Efforts were made to provide assurances regarding confidentiality. This confidentiality extended to not naming the participants, unless expressed permission was granted. Generally, interviewees were uncomfortable speaking candidly without assurance that they would not be specifically named in the study. To protect identities, when interview data is referenced or quoted in this dissertation, it is referenced according to a random numbering scheme. However, to provide more insight into the perspectives of the policy participants, the organizations that each interviewee represented are provided in Appendix B.

Preliminary interview questions were generated through literature reviews, media searches, and public reports. The interview format was semi-structured. Each interview began with a short overview of the research and, if applicable, the particular case in question. Interview questions were provided in advance and were tailored to each person, though the research objectives and questions were kept at the forefront (Kingdon 2003; O’Leary 2004, 164). (A summary of the guiding research questions used in the interviews is provided in Appendix C.) Not infrequently, unforeseen themes emerged during the actual interviews that sometimes guided the discussions, informed further research, or generated new research questions. A conversational format was taken for the interviews so as to encourage participants to provide as much information as possible.

Interviews were conducted face-to-face where possible or by telephone or by video-conference if meeting in person was not possible. In three instances, the participants opted to respond to the interview questions in writing. Unanticipated or additional questions sometimes surfaced after the interviews; when this occurred, further discussion took place over email. Often, this also led to improved access to primary-source documents. Data was also collected through additional email correspondence with individuals and organizations involved in the cases, especially when contacts were unable to participate in interviews. Such documents included organizations’ proprietary information, published articles, and reports or studies that had not been widely circulated. Second interviews were conducted on two occasions, when

further clarification was required and when the conversation had not come to a logical close during the allotted time.

Interviewees represented 43 different organizations (several people represented more than one organization, and more than one person from the same organization were interviewed), including federal and provincial governments, foundations, businesses, registered charities, law firms, tax advisory firms, banks, research organizations, universities, international government organizations (IGOs), international NGOs, and umbrella organizations, which were non-profits, foundations, or charities. Policy actors were identified through the secondary research. Interviewees were board members, executives, managers, donors, professionals, fundraisers, professors, researchers, scientists, volunteers, staff, politicians, lawyers, and experts. The data collection methods involved multiple sources to establish the “chain of evidence” for the selected cases (Yin 2006, 40-41).

In all but four cases, interviews were recorded and transcribed. In several of the interviews, additional primary source documentation was either identified or directly provided to the researcher. Additional contacts were also suggested at some of the interviews, but often these individuals were only peripherally involved. Secondary referral interviews tended to corroborate previously collected data; new evidence was rarely revealed. The interviews were pivotal in establishing the chronology in the cases, particularly where personal interactions and private meetings were the main forms of communication essential to setting policy agendas (Yin 2009). Interviews were conducted for each case until no further contacts could be identified, or until a point of saturation was reached.

4.6 Construct Validity

A range of steps was taken to ensure the validity of the findings. Select interviewees (where appropriate) were asked to validate preliminary observations I had made based on my review of the relevant documentation in each of the case studies. Additionally, documentation was collected and interviews were conducted until a point of saturation was reached (Yin 2006, 40-42). Observed phenomena in the cases were reviewed with an eye for variance and similarities in magnitudes, structures, processes, causes, and consequences (Babbie 2007, 379; Yin 2006, 136 -137). Using multiple cases also provided external validity (Babbie 2007; Rich 2005).

Ideographic (descriptive) explanations were developed to describe the series of complex and unique events that took place in each specific case. The phenomena observed in the cases “stipulate[d] a presumed set of causal links about ‘how’ and ‘why’ something happened” (Yin 2006, 141). Each of the chapters was summarized into a chronology of events, describing what happened, and postulating why those events transpired (Yin 2006, 36). The case-specific interviews were supplemented with additional general interviews on the policy role of foundations in Canada.

Cross-referencing the findings (and their limitations) with alternative analytical lenses also established the construct validity. This cross-referencing drew on historical research, primary sources, secondary sources, and available empirical data. To supplement and analyze the data, the research drew on findings from the US and other cross-national comparative studies. The use of secondary research on foundations internationally and in the US further contrasted or corroborated the findings and helped build a model to analyze foundations’ roles in public policy.

4.7 Limitations

A common critique of case studies is that they contain selection bias. As indicated above, in this dissertation, selection bias was intentional and actually adds to the value of the study. There must be an indication of relevance (covariance) for research such as this to be a worthwhile undertaking. That said, there may also be a tendency to place pre-determined or pre-existing notions on the data. Inevitably, according to other scholars who have mastered the case-study method, my preconceived notions, including my assumptions, personal views, concepts I focused on, and preliminary hypotheses, were challenged. Indeed, as these experts would have predicted, I was forced to revise my argument on several essential points (Flyvbjerg 2006, 235).

A random approach to case selection would not assist in addressing the research questions, because they are in fact specific to each case. An exhaustive, longitudinal, comparative analysis, or survey research method aimed at addressing these questions across a variety of cases in similar or different policy domains, while exciting and potentially revelatory, would have been beyond the scope, individual abilities, time, and resources available (Bloomberg and Volpe 2008; Dobkin Hall 2006).

Moreover, if the case had been selected randomly, the identified grants' connection to the research questions would have been a matter of chance. The obvious drawback of the direct-selection approach for the comparative cases was that it introduces selection bias. However, it is consistent with other US research on foundations and think tanks, and Canadian research on think tanks. It also was necessary to set a relevant period of time (O'Leary 2004). Cases where a conclusion to the process or topic was not clear were excluded. This restricted the research to a manageable scope.

It is also interesting to note that scepticism regarding the motivations for the research posed a barrier to being able to secure interviews. Some of those who accepted my interview requests indicated that they were expecting that the research was attempting to "expose" foundations' misdealing actions or political agendas. While this view might be common in the public discourse and is often highlighted by the media, proponents or representatives of foundations declare that such negative attitudes do not reflect their motivations or their actions as philanthropists or policy participants. This reluctance to assist in my research also came up when I was submitting my FOI requests. The administrators shared with me that they mostly dealt with journalists who were "looking for a scoop."

Obviously, these perceptions (while perhaps not widely held, ~~they do~~ tend to pervade the public discourse) might have influenced some of my initial perspectives about the roles of foundations, but I really tried to remain objective in my observations (Stewart 1995). This incongruence between commonplace discourse and reality was in fact part of my motivation for conducting research on foundations in Canada in the first place. After all, foundations surely could not all be that bad (as has been suggested). At the same time, it did prompt the question: what type of role would be appropriate for foundations in Canadian public policy?

Lastly, a common methodological problem in the study of think tanks' and foundations' influence on policy making is how to appropriately measure influence. Abelson poses some poignant questions in this regard:

Should influence be measured by recording media citations, tracking the number of website hits, monitoring appearances before legislative committees, the number of publications, or the number of staff appointed to high-level positions in government? Or are there other tangible and intangible indicators that should be

considered? Do some indicators provide a more accurate measurement of policy influence than others? (2002, 170)

He suggests that given these challenges, perhaps a better focus of study is to understand the roles or relevance of think tanks, rather than to try to measure their influence. By extension, this insight can also apply to this study of foundations.

4.8 Summary

The methodological approach used in this dissertation was a cross-unit, qualitative case study comparison. Three cases were studied where foundation involvement in policy making in Canada was evident, relatively recent, and held promise for shedding light on these particular organizations' policy roles. I used a thick-descriptive approach to explore the roles of private and public, and US and Canadian foundations across the policy domains of fiscal policy, PSE, and health-research policy. The methodological design involved identifying the research problem, articulating the purpose, developing the study objectives, determining the research design, forming research questions, and proposing an argument. The specific methods included case selection, document and data collection through interviews, primary and secondary research, submission of freedom-of-information requests, archival searches, and reviews of government, organizations', and university records (O'Leary 2004, 99). The analytical technique was explanation building. The analysis and theory building were iterative, involving the generation of many drafts of the cases. Writing was a critical part of the analytical process (O'Leary 2004, 205). My argument required considerable revision upon completing the case study research, which is consistent with the warnings of experts in this research method (Flyvbjerg 2006; Gerring 2004).

5 FISCAL POLICY FOR FOUNDATIONS

This chapter considers foundations' policy engagement from 1993 – 2007 in the capital gains tax exemption for the donation of publicly listed securities under the *Income Tax Act*. A brief update is provided on the most recent 2017 third-sector proposals and the government's responses for amendments to this tax incentive. The government of Canada extended the capital gains tax exemption for the donation of publicly listed securities to charitable organizations on a trial basis in 1997. The charitable tax incentive included community foundations and public foundations, but excluded private foundations. While the measure was made permanent in 2002, private foundations were only made eligible for this tax incentive in 2007, 10 years after the legislation was first introduced, and following significant lobbying efforts from the foundation sector.

This case shows that policy entrepreneurs successfully mobilized to eventually secure an extension of the capital gains tax exemption to private foundations. However, the narrow focus of the PFC distracted policy community from the broader public concerns regarding the legitimacy and accountability of private foundations in Canada, and the related, more fundamental changes to regulatory regime for foundations that were taking place concurrently.

This case raises interesting research questions: why were private foundations excluded from the original pilot legislation? Why foundations were not sufficiently engaged in the policy-making process so as to prevent this? The research on Canadian foundations suggests that the exclusion of private foundations from the donation incentive might have been due to the closed nature of the fiscal policy regime. Historically, there has also been a prevalent bias against private foundations in Canada (Kryvoruchko 2013). According to the CAGP, retrospectively, the government's reservations regarding the extension of the capital gains tax exemption to private foundations were that:

Government was concerned that persons could use their shareholdings combined with the holdings of the foundation to influence a corporation for their own benefit, in our [CAGP] experience these abuses are exceedingly rare and could be dealt with under existing law. The regime has overly broad application and will impact private foundations across Canada in ways we expect the Department of Finance has not understood. (Manwaring and Campbell 2006, 6)

The perception was essentially that foundations were mainly tax shelters (see Glossary) or tax havens for the rich. There was a fear of abuse on the part of private foundations, e.g. that they might be used to advocate for the donor or director(s)' private interests. This resulted in their differential treatment (Payne 2005). In addition, the extension to private foundations might cede the federal government's considerable influence on social policy via charitable regulations in the *Income Tax Act*, i.e., through the indirect expenses related to this tax incentive.

5.1 Overview

The government of Canada incrementally introduced tax policy changes for the donation of publicly listed securities in 1997, 2001, 2006, and 2007, as incorporated into the *Income Tax Act* (Farber and Berg-Dick, 2015). The policy changes are summarized below. Originally, the new tax exemption applied only to donations given to registered Canadian charities and to public or community foundations. It did not apply to private foundations. (Recall that private foundations are distinguished from public foundations by the proportion of controlling non-arm's-length individuals and sources of funding [Payne and Zhao 2007]).

When the policy was first introduced, the government did not explicitly communicate why private foundations were treated differently. However, in hindsight, insights can be found. According to an interview with the *Globe and Mail*, Paul Martin, reflecting on his role as Minister of Finance in this case, said, "The argument against [the] policy had merit... The fear was you would have a situation where Hospital A in downtown Toronto would be better able to attract donations than Hospital B in a small, poor town." Moreover, according to both the interviews conducted for this research, and an earlier media interview with a key policy entrepreneur, Donald K. Johnson, "the bureaucrats objected to any tax cut that would cost the government revenue. And they really objected to a policy that would see wealthy individuals directing taxpayers' money to their favourite charities, at the expense of other worthwhile causes" (Willis 2007). This perception continues to permeate the policy discourse, as will be demonstrated in this case.

Although a historical example, this case is still relevant today because governments can affect the level of resources available to foundations, and thereby charities, through either direct grants, indirect expenses, or donation incentives in the tax code (Abramson, Salamon, and Streule 2006, 107). When the extension of the capital gains tax exemption of publicly

listed securities to private foundations was made permanent in 2007, the same policy entrepreneurs began advocating that private capital become eligible. Further iterations of this capital gains tax incentive were still under consideration in 2017, i.e., the extension of the capital gains tax exemption to donations of private shares or real estate.

In the 2016 federal budget, then–minister of finance Joe Oliver introduced an extension of the capital gains tax exemption to “proceeds from the sale of appreciated private corporation shares or appreciated real estate” (Golombek 2016, 1). In the spring of 2017, the Liberal government rescinded this commitment, which had been slated under the previous government to come into effect on January 1, 2017. No explanation for the change was provided, but can be inferred from this case study.

This case is important because it highlights the role of the federal government in health and education policies, which constitutionally fall under provincial jurisdiction but are considerably affected by charitable regulations in the federal *Income Tax Act*. As one interviewee noted with respect to this situation:

Most lawyers, including myself, are involved through tax because the bulk of charity regulation in this country is through the Income Tax Act. The constitution [however] makes the governing of charities a provincial responsibility, not a federal responsibility... and then because the provinces largely abandoned their authority to regulate the sector, the CRA started stepping in in the 1970s to draft laws that were intended to regulate the sector. That’s where you get the distinction that you’re talking about between foundations and charitable organizations, which arose from this idea that you need to, we need to, regulate organizations and it occurred through the Income Tax Act. (Interview no. 20, June 6, 2016)

Therefore, understanding tax policy in the study of foundations’ policy roles will shed light on how the policy directions are determined between provincial and federal governments and third-sector actors.

Three things are evident from this case: (1) that private “grant-making” foundations (see Glossary) in Canada face similar legitimacy challenges as their counterparts in the US and the UK (Anheier and Daly 2007; Badelt 1997; Benz 2006; Bernier and Hafsi 2007; Toepler 2006; Lagemann 1999). Governments struggle with the tension between both encouraging and

regulating philanthropy, especially as it concerns foundations: (1) as Dahl notes, part of the challenge is that “independent organizations are highly desirable and at the same time their independence allows them to do harm” (Dahl 1982, 31); (2) this case provides evidence of foundations’ involvement in policy processes in order to overcome perception issues and organize and legitimize their policy efforts with the Canadian government; (3), Howlett’s description of the Canadian policy entrepreneur is apt (1997, 1998). Both public entrepreneurs (politicians and civil servants) and foundation entrepreneurs use the regular budget cycles and the windows of opportunity to push their competing policy agendas forward. Moreover, this competition between public- and private-sector policy agendas pursued by both entrepreneurs is based on an oversimplified and polarizing debate about the roles of foundations in Canada (Phillips in Elson 2016, 3).

The original policy agenda for the capital gains tax exemption emerged not from foundations themselves, but from individual third sector policy actors. Foundations were not especially engaged in the original agenda-setting effort. Once the pilot legislation was rolled out, however, and private foundations realized they had been excluded, they started to get involved. In the policy revision, though, it took a much more organized and concerted effort on the part of private foundations to affect the government’s policy implementation, amendments, and evaluations and to finally get included in the lucrative tax exemption. In addition, new restrictions on the operations of private foundations were introduced in 1996/97, and the extension to private foundations was sought in 2005 and 2006.

The exclusion of private foundations from the 1997 legislation was unexpected. As an interviewee from a central government agency stated to Elson with regard to another policy issue, “we see very little evidence of voluntary sector engagement [in policy making]. When we do hear from organizations, their concerns are often very particular and not germane to our policy making process” (quoted in Elson, 2011, 87). In the 2000s, there were more formal processes for engagement between the third sector and the government of Canada in the VSI, the VSR, and the Blue Ribbon Panel, for instance (Laforest 2009). That said, foundation executives perhaps had not given enough credence to the prevalence of negative perceptions regarding private foundations (as being either tax shelters for the rich or even vehicles for tax fraud), nor did they anticipate the effect that these perceptions might have on the policy development and implementation (Toepler 2006; Kryvoruchko 2015).

In response to what was seen as discrimination against private foundations, and in an effort to coordinate the efforts of the emerging policy network, new formal collaborative arrangements were made. In 1998 and 1999, the Muttart Foundation, Maytree Foundation, McConnell Foundation, and Max Bell Foundation started “getting together to talk about the issues” (Interview no. 13, April 23, 2015) and in 1999, established the umbrella organization Private Foundations Canada. The organization was established to promote the policy interests of foundations in the face of “perceived discrimination against private foundations that came about because of the capital gains tax changes” (Interview no. 21, April 13, 2015). These organizations then approached 20 other foundations to incorporate them into the PFC. The PFC became a registered charity in 2002, when it changed its name from Private Foundations to Philanthropic Foundations Canada, thus enabling it to represent of all types of foundations. The PFC now represents over 130 members from private, independent, family, corporate, and public Canadian grant-making foundations. In 2015, total members’ assets were approximately \$23 billion, and annual grants were about \$532 million (PFC 2017).

5.2 Background

Following the 1967 Report of the Royal Commission on Taxation, capital gains taxes were first brought into the *Income Tax Act* in 1972. Up until then, capital assets and one-time capital gains were not contemplated as a potential source of income in the tax legislation, i.e., “capital gains were not taxed” (Canada 2016, 11). This tax arguably introduced more equity into the Canadian tax system since it applies primarily to individuals in upper tax brackets (Lammam and Clemens 2014, 36). When the capital gains tax was enacted in 1972, it was set at 50% of the earned income rate so as not to introduce a disincentive to investment (Burrows 2009). The 50% rule is often referred to as the “half-inclusion rate.” In 1990, the inclusion rate for capital gains tax was changed to 75%, where it remained until it was gradually reduced back to the “half inclusion rate” (Farber and Berg-Dick 2015). In 2006, when the impact of the 1997 exemptions of capital gains tax for the donation of publicly listed securities was being assessed by Imagine Canada, it was estimated that the wealth of Canadians tied up in securities (only one form of capital property) was about \$1.4 trillion. By comparison, the year prior, Canadians had only made donations of \$7.9 billion. So, in 1997, this represented a considerable untapped resource for the third sector in Canada.

Most donations in Canada are made in the form of monetary donations. Gifts of capital were very limited before capital gains tax amendments were made. This was due to the fact that part of the appreciated income of the value of the asset was taxable, i.e., through the capital gains tax. Capital gains or losses are incurred upon the sale or disposition of capital assets or property. Types of capital property included in the CRA definition include “cottages; securities such as stocks, bonds, and units of a mutual fund trust; and, land, buildings, and equipment you use in a business or rental operation” (Canada 2016, 6). Capital gains or losses occur when gifts of such properties or assets are made or received, and they must be reported in individual and corporate tax returns. The implication for would-be donors is a higher income tax burden for donations of qualifying capital compared to donations of the equivalent amount of cash.

The simplest way to understand the background for this case is to know that the treatment of donation incentives under the *Income Tax Act* differs for tax rates that apply to earned income as opposed to those for capital assets, and that there are different donation incentives embedded in the legislation for each. At present, charitable tax incentives are provided to individuals and organizations in three forms: deductions, non-refundable tax credits, and full or partial exemptions from capital gains taxes (Duff 2003, 49). The first two incentives were built on the income-based tithing model (which has religious roots) that dominated the tax treatment of charitable donations in the *Income Tax Act* in Canada until 1997. Until 1977, there were only two measures in the *Income Tax Act* that encouraged capital giving: one enacted in 1977 eliminated 100% of capital gains tax on cultural donations, art, and artefacts of national importance; and a second offset the 20% contribution limit on capital gains for donations of capital properties to charity (Burrows 2009, 5).⁵ This proposed tax incentive for capital gains therefore contemplated a fundamental shift in the prevailing paradigm for encouraging philanthropic giving in Canada.

The tithing model considers that donation incentives should be aimed at encouraging charitable giving through regular donations of a portion of an individual’s annual earned income. The approach is based on a narrow definition of income that does not include capital

⁵ There are several other provisions and exemptions in the *Income Tax Act* to incentivize giving, but they are outside the scope of this study. Additional tax breaks for donations consider lifetime exemptions, small business holdings, farms, fishing, and economically sensitive property (Hogg, Magee and Li 2012, 532-534).

gains (Burrows 2009). Individuals receive a 50% tax credit on donations of earned income. Before 1997, the cost of giving under the *Income Tax Act* was higher for capital gains because the donation of capital assets “triggered a tax on the accrued, unrealized gain,” but was otherwise consistent with the differential tax treatment between income brackets in Canada (Innes 2003, 906). The capital considered in this policy includes appreciations of publicly listed securities (see Glossary). Such a donation incentive would alleviate some of the tax burden for more wealthy donors.

The capital gains tax exemption for the donation of publicly listed securities was introduced as a five-year pilot program in 1997. The income inclusion rate for these donations was effectively halved. This pilot donation incentive meant that:

When a taxpayer donates to an eligible charity, securities listed on a prescribed stock exchange (or certain other securities such as units in mutual funds), the capital gain that has accrued on the securities is included in income at only one-half the standard capital gains inclusion rate. Currently, the standard capital gains inclusion rate is 50 per cent, and therefore the inclusion rate for charitable donations of listed publicly traded securities to eligible charities is 25 per cent. (Canada 2016)

This general rule varies somewhat both from province to province and also in terms of the value of the tax deduction. Technically, the change meant that when a donation of a security was made, 25% of the capital gain was taxable, whereas if the gains were realized (and the owner profited), the tax rate would be 50% (Innes 2003, 906). In 2006, capital gains for the donation of securities were completely exempted from taxation (Lasby and Hall 2007, 2).

5.3 Policy Agenda

Between 1993 and 1997, policy entrepreneurs in the third sector had commenced informal conversations regarding the potential for a charitable tax incentive that would entice larger gifts (although smaller in number) by targeting capital assets. The idea behind the policy was to better support the third sector in a time of devolution resulting from the government’s embrace of NPM (Elson 2016). Members of a policy network emerged, including tax lawyers; investment advisors; umbrella organizations such as the CAGP and the AFP; heads of grant making and community foundations; civic and provincial politicians; and political consultants.

The donation incentive was introduced on a trial basis in the 1997 federal budget on the condition that it both increase donations *and* lead to a more equitable distribution of that increase across different types of charities (Canada 2002). That outcome has been debated (discussed below). The policy change transformed the philanthropic landscape in Canada.

Table 5-1. Chronology of Capital Gains Tax Exemptions for Charities (1993-2017)

<i>Year</i>	<i>Policy</i>	<i>Politics</i>	<i>Process & Participants</i>
1993/94	Agenda identified through US policy transfer; Program Review gets underway	Liberals overthrow Progressive Conservative Party in 1993 election	Overshadowed by slew of other proposals from third sector; advocacy from a small policy community
1997	Capital gains exemption for listed securities introduced in the budget, inclusion rate of 75% of the gain ⁺	Liberals win a second majority in June 1997 election	Chrétien's Liberals compete with US for capital donations; VSI begins
1999	Broadbent report delivered for the VSI [§]	Hierarchical relationship between sectors	Privy Council, task force, politicians, third sector
2000	Inclusion rate reduced from 75% to 66% (gains after Feb. 27, 2000)	Liberals win a third majority; Martin is Finance Minister	Department of Finance decision, PFC consulted
2000	Inclusion rate reduced from 66% to 50% (gains after Oct. 17, 2000)	Martin is Finance Minister	Department of Finance decision
October 25, 2002	Government report on trial results [‡]	Martin is Finance Minister	Department of Finance, closed evaluation process
March – June 2002	Incentive made permanent in Bill C-49 of the budget	Martin dismissed as Minister of Finance, runs for Liberal leadership	Department of Finance, closed process
2006	VSI policy initiative ends; budget reduced capital gains inclusion rate to 0%	Prime Minister Harper's first budget; Finance Minister is Jim Flaherty	PFC and policy entrepreneurs advocated at budget hearings
2007	Incentive extended policy to private foundations	Conservative minority government	PFC continued to lobby in letter-writing campaign
2015	Capital gains exemption extended to private assets	To be implemented Jan. 1, 2017. Liberals won election in 2015	Conservative Minister of Finance Joe Oliver committed to it pre-election
2017	Extension to private assets repealed	Liberal Minister of Finance Bill Morneau in April 2016	2007-17 advocacy from same network as above

Sources: Canada 2002; Farber 2015; Innes 2003; Phillips 2003, 914; Golombek 2016; Interview no.18, November 21, 2014; Canada 1997b.

⁺ *Income Tax Act*, paragraph 38(a.1), 1997.

[§] Phillips, in Phillips 2011.

[‡] Canada 2002.

In 1993, Donald K. Johnson,² then chair of a fundraising campaign for the National Ballet of Canada, played a pivotal role in moving the policy agenda forward. In leading the campaign, Johnson sought out the advice of a colleague at Harvard University who suggested that the National Ballet's fundraising committee solicit contributions of stock from their prospective donors. Given this suggestion, the National Ballet's fundraising committee sought the advice of Ernst and Young on the donation incentive. Their analysis (conducted prior to 1997) revealed that transferring accrued gains on publicly listed shares and donating the proceeds would trigger a capital gains tax for the donor. The cost of the capital gains tax far outweighed the charitable tax deduction for the donation. Consequently, "basically no one gave stock to charity in Canada at that time" (Interview no. 24, March 6, 2015). The result of this seemingly insignificant sequence of events was the formulation of the policy idea to reduce the capital gains tax on donations, which would create the need to eliminate the discriminatory treatment of private foundations and, ultimately, create a new umbrella organization for foundations.

After receiving this information from Ernst and Young, a fairly standard, though vocal lobbying effort got underway. It commenced with a select few policy actors at the helm and Johnson⁶ at the fore. Over the course of several years, Johnson facilitated letter-writing campaigns to more than 700 individuals and organizations across the country. Recipients were key advocates for the third sector. Johnson's objective was to get the support of the caucus and all members of Parliament. The strategy was based on the fair assumption that "MPs listen to their constituents" (Interview no. 25, May 6, 2015). For Johnson, that was just the first step. Once this goal was realized in 1997, he then began advocating for extending the measure for private foundations, and then for the exemptions for private company shares, and for private and commercial real estate. Johnson continued to advocate for similar measures in 2017. He was a critical policy entrepreneur in the overall process for opening up the charitable giving regime in the *Income Tax Act* to the notion of capital asset-based philanthropy. There were related, concurrent developments in the country's fiscal situation, and the relationship between

⁶ Not to be confused with Donald James Johnston, PC OC QC, former Liberal cabinet minister and president of the federal Liberal Party from 1990-1994.

the third sector and the federal government. In the 1990s, the federal government had found “new fiscal room,” which led to much conversation about how to use projected surpluses.

In 1997, the Fraser Institute hosted a conference for economists to discuss the potential allocation of these resources. One of the key conclusions was that personal income taxes should be lowered “to make the Canadian system more competitive with that of the United States and other industrialized countries” (Grubel 2014, 1). In 1999, a follow-up conference focused on the capital gains tax regime. “The consensus view was that capital gains tax rates should be eliminated or lowered” (Grubel 2014, 1). Following from this, the federal government lowered the capital gains tax rate from 75% to 50% (the half-inclusion rate). The argument behind such policy changes was that “capital gains carry considerable economic costs and produce relatively little revenue... [and] impossibly high costs on the economy by reducing the supply of capital,” among other issues like introducing disincentives to entrepreneurship (Grubel 2014, 2).

5.4 Policy Decision

In the federal budget announced on February 18, then-Minister of Finance Paul Martin introduced a capital gains tax exemption for the donation of publicly listed securities. The legislation effectively lowered the “income inclusion rate on capital gains arising from certain donations to charities (other than private charitable foundations) by individuals and corporations from 75 to 37.5 per cent” (Canada 1997, 114). Donations to charities and public foundations, but not private foundations, would be eligible for the exemption. The stated purpose was to have “tax incentives slightly more generous than the United States system,” and to “increase donations and distribute the additional donations fairly among charities” (Canada 1997, 114). However, at the same time, changes were also enacted to increase accountability of the third sector, and the CRA’s Charities Directorate was given additional resources to improve their oversight capacity. “The measures proposed in this budget represent the government’s response to a thorough and exhaustive review of the tax provisions relating to charities” (Canada 1997, 116; See Appendix D, Table D-5 for a list of changes). This policy direction is commonly referred to as the “Program Review,” above.

From idea to implementation, the policy process for the capital gains tax exemption was protracted. Most of the interview participants attributed the eventual success of the effort to

Johnson. One commented that “he would nearly jump out of the bushes as Paul Martin was walking from his office to get the idea in front of him” (Interview no. 24, Mar. 6, 2015). All of those interviewed also relayed that Martin overrode the advice even of the Department of Finance in introducing the capital gains exemption. The support of the Minister of Finance is clearly critical for these types of fiscal policy changes.

In February 2000, before the trial period had ended, the capital gains inclusion rate was reduced in the *Income Tax Act* from 75% to 66%; then, in October 2000, it was changed back to the “half-inclusion rate” of 50%. Although the capital gains tax exemption pilot had been scheduled to close on December 31, 2001, on October 12 of that year, the government made the donation incentive permanent (Interview no. 22, May 14, 2015). The decision to make the donation incentive permanent was partly based on the Ministry of Finance’s report on the effectiveness of the capital gains tax exemption pilot, published shortly before the trial period was scheduled to end, but not released until 2002. The report claimed that donations of publicly traded securities had tripled between 1997 and 2000. Results showed that the donations had been directed toward all types of charities but in particular had profited larger charities. As well, greater fundraising capacity and sophistication were evident, and both public foundations and the education sector reaped the benefits (Canada 2002). According to the federal government’s official communication, the decision to release the report was made because the expectations from the original pilot had been met. Gifts of listed securities to private foundations were, however, still ineligible.

There was some criticism of the data and methods used in the Department of Finance’s report. As well, other studies have contested the outcome of the policy change. Burrows suggests the change “prompted unprecedented large gifts and increasing overall giving by 140% between 1995 and 2007, from \$3.6 billion to \$8.7 billion” (2009, 5). Duff, on the other hand, states, “It is difficult to determine whether this incentive has increased aggregate donations, or merely induced donors to substitute gifts of publicly traded securities for other gifts” (2004, 183). Some scrutinized whether one of the two original policy objectives of the pilot was met:

The distributive biases noted in the report toward certain types of charities are in fact quite extreme. For example, while educational charities received only 15.8 percent of total reported gifts in 1997, they received 42.2 percent

of the value of donations of public securities, which is far more than any of the other categories of charity reviewed in the report. (The closest was welfare charities, at 30.5 percent, followed by religious charities, at 11.9 percent.) Likewise, large charities received 36 percent of total gifts [of publicly listed securities] by comparison with smaller charities, but 56.4 percent of gifts of public securities. As between charitable organizations and public foundations, the latter received only 15 percent of total gifts, but 60 percent of the value of public securities donated in 1997. (Philipps, L. 2003, 922-3)

There was also critique of the data and methods used in the 2002 report of the Department of Finance, which had informed the decision to make the tax incentive permanent. Farber conducted a retrospective analysis of the correlation between the donation incentive and indirect expenses for the federal government and found that, for “each forgone \$10 of federal capital gains tax revenue, the result was over \$130 of donations, or a factor of 13” (Farber 2015, 5). There have also been several critiques of the limited amount of information the federal government released on the donation of listed securities. Either way, the capital gains tax exemption was a significant change to the Canadian income tax regime governing charitable contributions, and more particularly for foundations and the third sector in Canada (Innes 2003, 909; Interview no. 22, May 14, 2015), which is the more well-known part of this story. What follows is even more important, but less well known, for understanding the policy roles of foundations in this case.

5.5 Policy Reformulation

Private foundations were not considered eligible recipients under the legislation. In response, in 1998–99, the Muttart Foundation, Maytree Foundation, McConnell Foundation, and Max Bell Foundation started “getting together to talk about the issues” (Interview no. 13, April 23, 2015). Private Foundations Canada was the result of these conversations.

The first few years of the organization’s overall efforts were focused primarily on public advocacy to protest discrimination toward private foundations in the capital gains tax exemption. The foundations policy community knew inherently (not because of any research on the topic, which provides evidence that this is indeed an effective strategy) that to influence

decision makers in government, they needed insider knowledge to access the closed Canadian fiscal policy regime. Hilary Pearson was recruited from the Department of Finance and hired as president and CEO of PFC in 2001. The PFC board had been looking specifically for an advocate with knowledge of government and public policy. Her first directive was to get the capital gains tax legislation changed to include private foundations. Efforts continued in alignment with the ministry-focused lobbying for a number of years.

After a while, it became evident that the strategy was not producing the desired effect. In 2005, on behalf of its members, PFC launched a campaign to address the legitimacy problem facing private foundations. One of the lead participants described this stage of the process:

What we decided to say is “we’re going to make one last push on this because otherwise, we can’t – we’ve been dragging this around for 10 years getting nowhere with it – amidst the Department of Finance. We’re going to make a last push to try and get it; we’re going to do it in a different way, and we’re going to mobilize the very significant resources and focus resources and get this done.” And we did it. (Interview no.23 May 1, 2015)

On behalf of its members, PFC basically explored “every possible avenue that we could think of to draw on in terms of support for the change” (Interview no. 21, April 12, 2015). In these later years of the campaign, PFC hired Hill and Knowlton Strategies as consultants to assist with the work and also held legal consultations in preparation for presenting their case. These presentations were more or less made to whomever would listen. The tactics included standard lobbying techniques such as writing letters to the minister of finance; submitting briefs in pre-budget consultations and to the Standing Committee on Finance; meeting with public officials, and members of the opposition (Interviews no. 21, April 12, 2015; no.13, April 23, 2015; no. 24, March 6, 2015).

From 2002 to 2006, the PFC continued its lobbying efforts to get private foundations exempted. Every year, letters were sent to Liberal and Conservative ministers of finance, and briefings were submitted as part of the budget consultation process. The letters reinforced the recommendation of the House of Commons Standing Committee on Finance “that the federal government amend the *Income Tax Act* to eliminate the capital gains inclusion rate applied to donations of publicly listed securities, including private foundations” (Interview no. 21, April 12, 2015). Every year between 2002 and 2007, the Department of Finance introduced changes

to the *Income Tax Act* pertaining to the charitable sector. Many of these legislative decisions were consolidated in Bill C-33 in November 2006 (*Income Tax Act* subsections 248(30) to (41)). The amendments represented the most important changes for the operation and oversight of charities in Canada since the introduction of required registration of charities. Also included were measures to prevent tax shelters, revisions to the definition of charities and public foundations, and increased public reporting and accountability measures (Carters, Jan 15, 2007).

In 2004, the Senate Standing Committee on Banking, Trade, and Commerce was authorized to review and report on issues relating to Canadian charities. The Standing Committee's mandate, among other somewhat lofty goals, was to address "the current federal policy measures on charitable giving; new or enhanced federal policy measures, with an emphasis on tax policy; and, the impact of current and proposed policy measures on the federal treasury" (Senate 2004, 3). From December 1–8, 2004, the Standing Committee heard presentations from witnesses including the PFC, the Department of Finance, the CRA, the AFP, the CAGP, the Canadian Council of Christian Charities, the Change Canada Charitable Foundation, the Canadian Centre for Philanthropy (now Imagine Canada), the Council for Business and the Arts in Canada, Ducks Unlimited, the Nature Conservancy of Canada, the Health Charities Coalition, and the National Arts Centre Foundation (Senate 2004, 14).

All respondents supported and advocated for the extension of the capital gains tax exemption to private foundations. In 2004, the standing committee tabled an interim report entitled *The Public Good and Private Funds: The Federal Tax Treatment of Charitable Giving by Individuals and Corporations*.⁴ With respect to donations to private foundations, the Senate committee declared its agreement with the witnesses' allegations that:

The discrimination that currently exists in the treatment of certain donations to private foundations and to public foundations must be ended, but on a temporary trial basis and subject to the resolution of governance and monitoring systems as well as self-dealing concerns; the capital gains tax [will] be applied to donations of selected asset classes, to both private and public foundations and other charities, must be eliminated. (Senate 2004, 11)

⁴ There is no record of a final report from the Senate Committee having been submitted.

Furthermore, the committee recommended that, “if the appropriate governance and monitoring systems are in place to ensure that private foundations are clearly operating in the public interest and that self-dealing will not occur,” private foundations should be included as qualified recipients for the capital gains tax exemption for the donation of privately listed securities (Senate 2004). These caveats eventually proved significant and, in hindsight, perhaps should have been examined more closely by policy proponents in the third sector.

At that point, however, the implementation of the Standing Committee’s recommendation was delayed by a federal election that saw the Liberals re-elected to a minority government. After a decade of Chretien’s leadership (1993–2003), Martin, the original advocate of this policy, now led the party. Two years later, in 2006, the Conservative Party under Stephen Harper’s leadership formed a minority government and the Voluntary Sector Initiative (VSI) dissolved. It is unclear whether the VSI, which was a key Liberal policy agenda, simply petered out and logically ended with the CRA regulatory reform, or whether it happened for political reasons when the Harper government came into power.

In December 2006, the House of Commons Standing Committee on Finance presented its pre-budget consultation report, *Canada: Competing to Win* (Canada 2006). The report informed the new Conservative government’s first budget. Under the leadership of MP Brian Palliser, 400 consultations took place with groups and individuals across the country. Those consulted on the charitable sector included the PFC, CAGP, AFP, and Imagine Canada. The primary charitable tax policy proposal noted in the report was the extension of the capital gains tax incentive to private foundations. At the same time, the legislation “place[d] limits on the percentage of stock that they may hold in any single company” (Minton and Somers 2016, 8). Clearly, scepticism regarding tax shelters continued to inform the CRA’s treatment of private foundations.

Alternative policy options (for instance, the creation of National Philanthropy Day) were also presented to encourage charitable giving and the elimination of the \$200 tax credit threshold, change the non-refundable tax credit to a tax deduction, and address the issues stemming from the increasing complexity of the new regulatory requirements for charities, including new self-dealing rules, rules regarding excess business holdings, and annual distribution quotas (Pallister 2006). (This final issue would become increasingly important in the coming years.) Ultimately, it was again recommended that the capital gains tax incentive be

extended to private foundations and that gifts of land and real estate also be considered eligible, but on a five-year trial basis.

As part of the new Conservative government's first budget in 2006, "the capital gains inclusion rate [was reduced] to zero" (Canada 2006, 230; Interview no. 17, November 17, 2014 interview), which meant that, "effective May 1, 2006, gifts to registered charities, other than to private foundations, of publicly listed securities [were] exempt to capital gains tax" (CRA 2007, 6).⁷ The policy changes that followed, however, appeared to the third-sector policy community to be giving with one hand and taking with the other; the federal government's policy makers, however, considered it "rebalancing." In 2006, unrealized capital gains were estimated to comprise half of the total market value of Canadians' stock holdings. This suggests that "the opportunity for many shareholders to donate stock and save tax is very significant" (Ryan 2006, 5). What it implies, though, is that along with the adoption of the tax incentive, there would be an equivalent movement of decision-making responsibility for investments into the public good to the amount of forgone tax revenue.

In keeping with recommendations from the Senate and Parliamentary standing committees, the new minority government's March 2006 federal budget included a commitment to consult with private foundations to support the development of new self-dealing rules (Payne and Zhao 2007). In 2007, the government introduced additional restrictions on private foundations, including:

- excess business holding rules to ensure persons connected with the foundation could not personally benefit;
- increased reporting and monitoring: investments in the same class over 2%, and "material transactions" would need to be reported to the CRA annually;
- required divestments: if the board of a foundation together holds >20% of the shares in a class of assets, penalties would be incurred if divestment did not occur in the CRA's prescribed timeframe;
- New non-arm's length rules applicable after March 2007, with penalties for non-compliance (Demczur 2007).

⁷ Gifts of ecologically sensitive land were also exempt from the donation incentive from 1997–2006, but are beyond the scope of this study.

The CRA also issued stern warnings regarding tax shelters in June and August of 2007; any taxpayer or charity appearing to be exploiting charitable tax or receipting incentives, personally benefiting, or allocating resources to activities deemed illegitimate under the charitable tax legislations could expect to be audited (Demczur 2007, 25). The government warned that any participation in tax shelters would result in the revocation of charitable status, a comment that was targeted in particular at private foundations. This penalty was to be levied despite there being no overwhelming evidence of misdealing. These concerns appeared to be derived from a few isolated incidents, as well as from the lingering perception about the self-serving motivations of private foundations that has pervaded both Canadian and US discourse on foundations.

A new CRA regime was also entrenched in the *Income Tax Act* legislation in 2007. As one interviewee with the federal government noted, regulatory reform for the third sector was the “big issue.” As a result of the VSI, the Charities Directorate of the CRA was bringing forward some of the consequent administrative challenges of the “current regime to influence broader policy development” (Interview no. 12, November 21, 2014). Four new measures were introduced in 2007: “education, either general publication or a letter to the charity understanding its obligations under the *Income Tax Act*; compliance agreement with the charity; position of an interim sanction or penalty, or revocation of charitable status” (Demczur 2007, 22). As an example of the magnitude of the changes, prior to these reforms, the only course of action the Charities Directorate could pursue if it uncovered evidence of violation of CRA policies was to revoke charitable status. Intermediary penalties provided a more efficient and timely oversight mechanism for the CRA than simply revocation.

Finally, with the passing of the federal budget on March 19, 2007, and of Bill C-28, private foundations were at last considered eligible recipients for the tax incentive for donations of publicly listed securities (CRA 2007, 7; Farber 2015). Also, in the 2007 budget, the same capital inclusion rates were applied for private foundations as for any other charity. The inclusion of private foundations as qualified recipients for the donation incentive was a welcome development. That said, it came at a price:

It is disappointing the government used this as an opportunity to propose such far-reaching and complex rules which completely change the regulatory regime for existing private foundations. The excess business holdings rules penalize

existing private foundations and add the compliance burden of monitoring the shareholdings of both the foundation and of non-arm's length persons. Private foundations holding more than 2% of a class of private or public shares should seek legal advice immediately. (Ryan 2007, 16)

The additional regulations that were introduced for private foundations reinforced and perpetuated the perception that foundations were not necessarily legitimate or accountable actors in the third sector. Although one interviewee noted, "The intention is not specifically to regulate private foundations per se, it's an anti-avoidance tax mechanism to ensure that the same people that are donating their shares are not taking advantage of the fact that they control the charity" (Interview no. 18 June 6, 2015). Excess business holdings, self-dealing, political activities, and disbursement quotas were intended to stymie tax abuses. The timing seemed a bit more than coincidental, and was noted in several of the interviews (Interviews no. 26, Nov. 21, 2014; no. 25, Mar. 6, 2016; no. 18, June 6, 2015; no. 20, Apr. 15, 2015).

5.6 Analysis

The government's policy amendments and refinements to this proposed tax incentive under the *Income Tax Act* were made over a period of ten years (1996/97–2006/07). As previously noted, these changes represented a philosophical shift in the treatment of charitable tax incentives in Canada, from an income-based "tithing model" to one that encouraged larger gifts of accumulated wealth (Burrows 2009). The policy shift was driven both by influential individuals and by foundation policy entrepreneurs in the third sector. Originally unsuccessful at extending the exemption to private foundations, they adjusted their strategies: focusing on regular policy windows and key politicians, using non-partisan lobbying tactics, seeking to influence key policy officials within government, and increasing their legitimacy overall.

Within these activities, two strategies can be teased out: first, foundations focused on regular openings in policy processes in attempts to influence the agendas, re-evaluations, and policy reformulations; second, foundations organized themselves in order to bring more coherence to their policy efforts, and to legitimize their voices. Case in point, and a revelation from this research in particular (although it is well known in the policy circles, but has not yet been documented empirically) is that PFC was formed as a result of this case. As one interviewee noted:

The PFC was started largely for public policy reasons. It was started almost entirely because of the foundations that created it. There were about 25 private foundations that got together to do it. They were quite angry about the perceived discrimination against private foundations and donors to private foundations that came about because of the capital gains changes that Paul Martin made back in 1997. (Interview no. 20 April 14, 2015)

These efforts proved fruitful, but did not come without consequence. The prevailing perception amongst Canadian policy makers was that foundations, in particular private foundations, are akin to “tax shelters” and that they are ripe for abuse. In Canada, compared to the US, there is also a reluctance to cede social policy direction (via tax policy for the third sector) to the “private” business sector, which tends to be synonymous with private foundations.

In the US and in Canada, the growth of the number and assets of private foundations has been attributed to more favourable tax treatment of foundations, and specifically to the creation of tax incentives for the donation of capital assets. In 1984, the US Deficit Reduction Act introduced the equivalent to the Canadian capital gains tax exemption. The legislation “permitted contributors to deduct the full fair market, rather than a reduced value, for donations of certain appreciated stock to non-operating private foundations” (Arnsberger, Ludlum, Riley, and Stanton 2008, 114). It was made permanent under the Tax and Trade Extension Act of 1998. In 1999, the US recorded the highest growth in the number of new foundations, 11% from the prior year. Assets also grew by 15% year-over-year between 1995 and 1999. Between 1996 and 2000, the US also saw the largest grants paid by private foundations from the period of 1984–2004. The growth has been attributed generally to the economic growth of the late 1990s, but also to this tax exemption (Arnsberger, Ludlum, Riley, and Stanton 2008, 114-5).

That said, reporting on the outputs of this donation have been sporadic and unsystematic in Canada. In 2011, Statistics Canada reported to the Standing Committee on Finance that donations of publicly listed securities were projected to cost the federal government \$217 million in foregone revenue in the form of an indirect tax expense. This represented about 7% of the overall projected federal cost of donation incentives of \$2.94 billion (Canada 2013, 10). The estimated annual cost of eliminating the capital gains on donations of private shares would add between \$42 million and \$101 million to that number,

and for real estate, \$61 million to \$169 million to the existing federal indirect expenses for these tax exemptions. On the other hand, Donald K. Johnson suggested that the projected annual federal cost for both incentives would be closer to \$50 million and \$65 million, and that annual donations would increase to \$200 million, a much more significant potential return on investment (Canada 2013, 16). The standing committee in turn made recommendations to the federal government to “explore the feasibility and cost” of these tax incentives, but only “subject to the government’s stated intention to balance the budget in the medium term” (Canada 2013, 25).

At the same time that the philanthropic community was lobbying for this specific tax incentive, government was also receiving recommendations for the general tax treatment of capital gains in order to put more money back into the system (the Canadian economy), or simply back into the hands of Canadians. In a report prepared by the federal Ministry of Finance in 1995/96, it was noted that:

By exhibiting such fiscal generosity, the federal government is sacrificing revenue, even though sources of revenue are becoming scarcer. At a time when the government is reviewing all its programs, withdrawing from some of its activities and even going so far as to abandon the production and provision of some public goods and services completely, it must not allow the tax expenditure associated with charitable organizations to escape public scrutiny. (Domingue 1996, 2)

At that time, it was reported that Canadians gave \$3.2 and \$3.5 billion in 1992 and 1993 respectively, for which tax credits resulted in approximately \$870 million and \$893 million in lost revenue for the government of Canada. Third sector advocates, though, argue that the benefit the public (and the government) receive from such investments into the sector (as opposed to costs or losses) are greater than the tax expenses (Domingue 1996, 3). In 1996/97 when the capital gains tax exemption was introduced, federal coffers were in a surplus position, and many organizations were making recommendations to the government about how to reinvest those dollars. The Fraser Institute recommended reducing the capital gains tax altogether in order to put more capital into the economy (Lammam and Clemens 2014). This lined up well with the proposal to eliminate those taxes on gifts of securities.

It is also noteworthy that the Fraser Institute is often considered Canada's foremost right-wing think tank. It has come under scrutiny for receiving donations from large American foundations, including pharmaceutical companies (Fleisch 2012). The Fraser Institute, along with the C.D. Howe Institute were key policy entrepreneurs in advocating for reductions to capital gains taxes, or elimination of capital gains taxes at approximately the same times as the proposed donation incentives considered herein were being pursued by other third sector organizations such as the PFC. The C.D. Howe institute is also considered one of Canada's more influential public policy think tanks. (In 2017, 39% of funding to the C.D. Howe Institute was raised from donations, including major gifts from ten private philanthropic foundations.⁸) These spikes in lobbying activity around capital gains tax have also tended to coincide with economic growth or recovery, or at least forecasted returns to growth (Lammam and Clemens 2014; Milligan, Mintz, and Wilson 1999; Mintz and Wilson 2000; Robson and Laurin 2017; Aptowitz 2017; Mintz and Wilson 2006; Burrows 2009).

Lobbying efforts in support of further revisions have since been ongoing, with the most recent proposed change to the capital gains tax exemptions legislation put forward in the 2015 federal budget. The definition of "qualifying capital" was broadened to include private assets, including shares of private corporations, and real estate measures were intended to provide a more equitable distribution of charitable tax incentives across different demographics, since capital gains for listed securities tend to attract the largest gifts from the wealthiest. Again, the federal government proposed increased restrictions on limited partnerships concurrent with the new incentives (Minton and Somers 2016; Aptowitz 2017).

For foundations, the policy problem was to increase the number and quantity of "tax assistance" for large donations to registered charities to entice major giving in Canada (Department of Finance 2002, 15). From the beginning of the 1990s, the third sector increasingly coalesced around the need for enhanced donation incentives. There was strong support within it for a capital gains tax exemption applicable for all registered charities.

⁸ The lines are blurred in terms of who is advocating for whom in this case. Think tanks and foundations both have been advocating for related changes to capital gains taxes since at least 1997, when the pilot for the capital gains tax exemption of publicly listed securities. In 2017, for instance, major donors to the C.D. Howe Institute included: the Aurea Foundation; the Crabtree Foundation; the Lotte and John Hetch Memorial Foundation; the Hal Jackman Foundation; the Munk Charitable Foundation; the John Dobson Foundation; Donner Canadian Foundation; Max Bell Foundation; the W. Garfield Weston Foundation; and the (W. Brett) Wilson Foundation (C.D. Howe 2017).

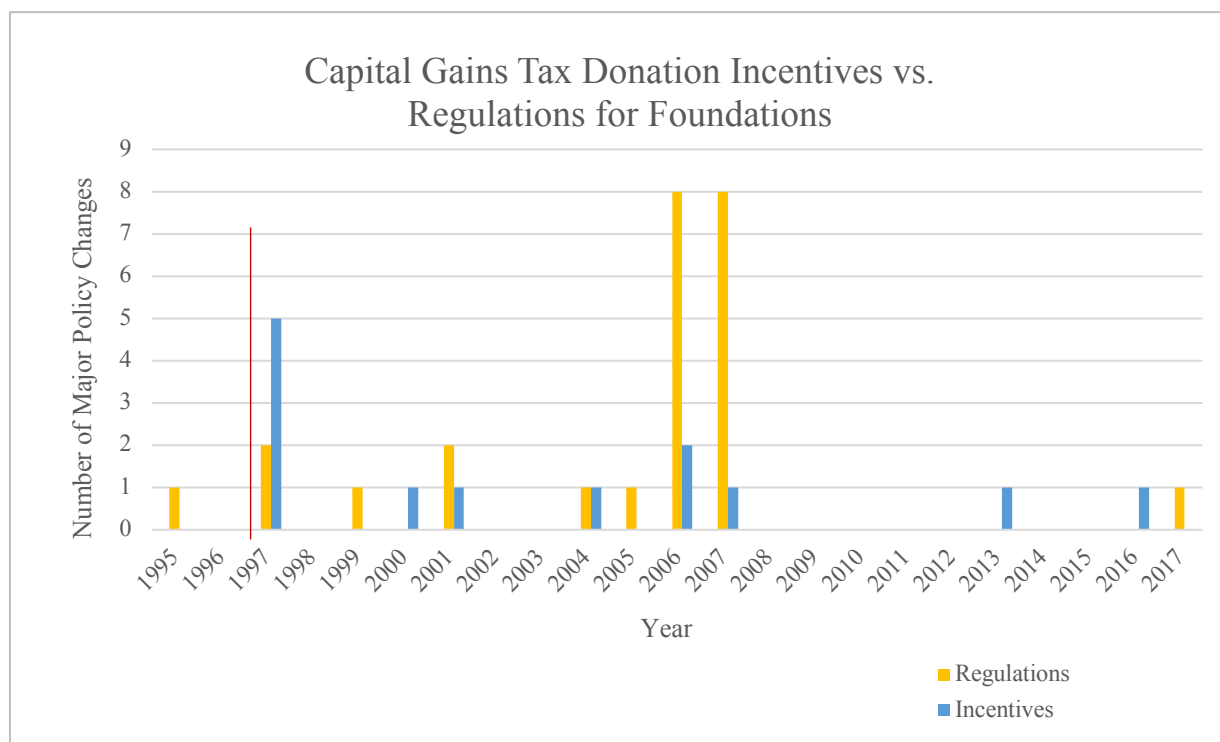
However, civil service staff in the CRA was opposed to the idea because of the potential loss of tax revenue and devolution of policy influence to foundations. The CRA also wanted to have appropriate oversight and accountability processes in place to ensure that no undue benefit would accrue to foundations (Interview no.17, November 21, 2014; Interview no. 18, June 6, 2015).

At the same time, and most probably through the Program Review process, the Canadian government identified another policy problem from the public perspective: efficiency and effectiveness in the third sector. The underlying value judgement made by the Ministry of Finance officials was that foundation donors were economically motivated, and that it was particularly true of those giving to private foundations (Interview no.17, November 21, 2014; Interview no. 18, June 6, 2015). It followed, then, that if tax incentives were to promote giving through these mechanisms, additional oversight would be required to dissuade potential abuses and to reprimand those who took inappropriate advantage of the measure:

The Department of Finance focus is on avoiding any measures that cost the government any tax revenues. They're in the mindset that government should decide where the money goes, not the donor, and they make recommendations to the Minister of Finance. It was to Paul Martin's credit that he actually went against the advice of his department in 1997. He had a business background and understood what the benefits would be. (Interview no. 25, March 6, 2015)

The Ministry of Finance, in attempting to counterbalance these new donation incentives, took the opportunity to tighten self-dealing and non-arm's-length regulation for foundations, at the same time strengthening of the CRA's oversight mandate (Burrows 2009, 11).

Figure 5-1. Capital Gains Tax Donation Incentives vs. Regulations for Foundations



There were inconsistent reports on the results of the capital gains tax exemption and of the impacts of these additional regulations. Figure 5-1 above shows the number of applicable major policy changes that incentivized donations of capital through this timeframe, juxtaposed with the number of increasing restrictions and regulations for foundations (a list of these policies is provided in Appendix D). The red lines indicate the dates of federal elections. With the exception of the 2011 election, the major policy changes happened at or around election time, which is consistent with Howlett’s research on policy entrepreneurs and “regular” policy windows in the Canadian parliamentary system (1997). This is illustrative of the double-edged sword of Canadian foundations’ narrow focus on capital gains tax exemptions at the time. It is also indicative of the clustering of policy amendments at “regular” policy windows occurring around budget cycles (Howlett 1997; 1998).

In the 2015 federal budget, the government announced that it was going to proceed as recommended by the third-sector proponents to extend the capital gains tax exemption to donations of private capital. However, the donation incentive came along, again with more anti-avoidance rules. Regarding the approach, Aptowitz commented that, still, “the

Department of Finance seems to equate mischief with tax planning” (2016). There is some truth to this. The CRA has specifically noted the issues, regulations, and mechanisms for monitoring abuse of “tax shelters” (see Glossary) in its policies.

Tax shelters are ways to protect capital assets from high rates of taxation. However, when it comes to using charitable donations as vehicles for tax planning that evolves into “tax sheltering,” the CRA is not on side. In short, there is a violation if a donation receipt is issued to the donor for a greater amount than fair market value or the purchase price. Upon review by the CRA, “In all cases, the CRA has reassessed the participants and denied the donation tax credit as claimed” (Canada 2017). This is not without reason: historically in Canada, foundations have been commonly viewed as tax shelters.

In the 2016 federal budget, the Liberal government “quietly announced” that it was revoking the Conservative government’s commitment to extend the exemption of capital gains from sales of private company shares and real estate (Golombek 2016). In a report of the Standing Committee on Finance, it was noted that both the UK and US allow exemption of capital gains for private shares and real estate. The report noted the main point of contention, i.e., the project tax expense of the donation incentive:

According to the Office of the Parliamentary Budget Officer, the estimated annual federal fiscal cost associated with eliminating the capital gains tax would be between \$42 million and \$101 million for donations of real property and between \$61 million and \$169 million for donations of shares of private corporations. Donald K. Johnson estimated that the combined annual federal fiscal cost for both measures would be between \$50 million and \$65 million, and predicted that annual donations would increase by \$200 million. (2013, 25)

It is difficult to assess the financial impacts of these policy changes because, until the 1970s, there was little quantitative information available on private foundations in Canada (as it wasn’t previously reported or required by the CRA). There were, however, many anecdotal accounts of major corporations or wealthy Canadian families using foundations for private benefit. Issues included loan-backs and manipulating the system to maintain control for corporate shares so as to prevent takeovers. Loan-backs are the process of making donations to the foundation that are then loaned back to someone (who is not at arm’s length) interest free or at a below market interest rate. They were also used as land-holdings, where land is used for

personal recreation by a family, but a receipt for the gift in-kind was issued for a personal or corporate tax break (McQuaig 1987).

For those advocating for the extension of the capital gains tax exemption to private shared and real estate, the Liberal government's move away from the Conservative government's prior commitment was a significant setback. The CEO of Imagine Canada, Bruce MacDonald, and Brian Emmett, the chief economist, expressed their disappointment in an interview with the *Financial Post*: the decision "sends a troubling message related to the creation of a regulatory environment that will enable charities to thrive, fulfill their missions, and continue to be a powerful contributor to the economic well-being of this country" (quoted in Golombek 2016). At the same time, the decision also reflects the persistence of the perceptions noted above with respect to the potential tax abuses enabled by private and family foundations.

5.7 Discussion

The discriminatory tax treatment of private foundations for this donation incentive was informed by the limited democratic legitimacy of foundations, particularly of private foundations, in Canadian public policy. In order to address the increasing requirements to demonstrate their legitimacy, accountability, and transparency, the foundations in this case banded together and created a new umbrella organization, the PFC, to enhance and coordinate their lobbying capacity and effectiveness with respect to this particular tax incentive. However, the decision makers were not convinced. The CRA's primary interest in this case was in limiting loss or potential loss of tax revenues, and of ceding policy influence over the charitable sector, which it exercises through the *Income Tax Act* and enforces through the CRA Charities Directorate. As noted, significant changes were made to the regulatory regime for charities and foundations at critical junctures in 1997, 2004, and 2007 (Appendix D).

Foundations and foundation representatives in this case operated in ways characteristic of Kingdon's concept of policy entrepreneurs (1995). They used their time, resources, and connections to influence government policy on the capital gains tax exemption. In addition, policy changes and policy advocacy activity tended to peak at regular intervals (or windows) that aligned with Canadian electoral and policy cycles, especially the annual budget cycle. This is consistent with Howlett's (1997) research on policy windows in Canada. Many of the policy

proposals related to the capital gains taxes were enacted at budget time, with lobbying efforts peaking right before. This led the Department of Finance to also enact commensurate restrictions or regulations on foundations in order to protect against abuses.

While lobbying the Minister of Finance in particular, given the closed nature of the fiscal policy regime, it was also apparent that foundation entrepreneurs tried to gain influence in non-partisan ways, so as to protect against the possibility of losing ground with government turnover. This was a prudent strategy. In addition to having annual windows of opportunity around budget time, there were also regular intervals or opportunities around election times. Moreover, reversals in policy direction could be observed with changes in government. In 1997, the federal Liberals under Chrétien took over from the Progressive Conservative (PC) government under Prime Minister Brian Mulroney. That year, under then-Minister of Finance Paul Martin's watch, the five-year pilot for the capital gains tax exemption on publicly listed securities was implemented. This policy implementation followed years of unsuccessful lobbying with the previous government. When the Conservatives were elected in a minority government under Prime Minister Harper in 2006, their first budget reduced the capital gains tax exemption from 75% to 0%; in other words, the tax was eliminated. In 2016, the Liberals (under Justin Trudeau) replaced the Conservative government. This resulted in the reversal of the Conservative government's commitment to extend the capital gains tax exemption to donations of private capital.

This case study provides evidence of the increasing coordination and organization of philanthropic foundations in Canada. In order for these policy entrepreneurs to establish their legitimacy, first as philanthropic organizations and second as policy actors, they undertook an increasingly formalized strategy of network building. The function of the PFC when it was first instituted was to advocate that the federal capital gains tax exemption be extended to private foundations as qualified recipients. The organization started with a specific policy function and sole objective. Only five foundations were represented in the membership originally, which grew to 25 within a couple of years. The PFC has now been in existence for over 25 years. It has not yet survived a generational shift (the President and CEO is still Hilary Pearson), although there has been turnover on the board. These are indicators of moderate organizational changes in response to the changing external environment.

The foundations landscape has grown. There is an increasingly diverse number and array of foundations in Canada, with varying mandates, policy ambitions, and operating strategies. Since its inception, PFC has also become more complex, with over 130 members, representing large and small foundations, public and private foundations alike. The unified and solitary original policy mandate survived and evolved into a more sophisticated suite of policy objectives and advocacy activities, including annual conferences aimed at professional development, sharing best practices, and bringing together ideas to share with government. The functional boundary representing the internal coherence of the organization is the distinction between the role of Community Foundations Canada (CFC), Imagine Canada, which represents all charities and NPOs in Canada, and PFC.

The main obstacle to the policy engagement of foundations is their limited perceived legitimacy, which is a prerequisite to achieving their policy objectives. While there appears to be increasing coherence in the foundation sector, there are still significant differences between types of organizations, and strategies for resolving some of the issues faced by the sector. The addition of a representative umbrella organization is an important step, but PFC does not yet represent enough foundations to have resolved to address these disunities; fewer than 3% of private foundations are members of PFC. This is evident in recent developments. In 2014, the federal Standing Committee on Finance's consultation process informed the *Report on Charitable Tax Incentives and Giving in Canada*. The individuals and organizations that went before the committee were the same as those who did so in the 1990s for the capital gains tax exemptions. The same policy approach is still the mainstay of the policy network's activity, i.e., the extension of the tax incentive to private capital. The federal government will continue to weigh the economic advantages of putting more capital into the market through exemptions like this, to maintain control of policy direction related to charitable investment, and to ensure that the tax expenses it is writing off are worth the investment and are not being abused.

The decision to exempt capital gains from donations of listed securities in 1997 and its permanent adoption in 2000 was the result of significant lobbying on the part of several key individuals and organizations from the third sector – policy entrepreneurs. These included the soon to be members of the Voluntary Sector Roundtable (VSR). Although it is an unincorporated umbrella organization, the VSR received funding support from the McConnell Foundation to pursue favourable charitable legislation for the sector (Philipps, L. 2003).

Similarly, the decision to extend the capital gains tax exemption to private foundations in 2007 was also the result of significant lobbying efforts of key individuals and organizations from the third sector – also policy entrepreneurs. Key among them was PFC. The original efforts of the policy community before the 1997–2000 tax changes were aimed at the policy agenda; the second round enacted in 2007 aimed at changes to policy review and amendments, the latter being a more challenging undertaking for foundations. In keeping with Kingdon’s assessment of the influence of policy entrepreneurs, it appeared easier for foundations to influence the government’s policy agenda to adopt the capital gains tax exemption than it did to amend it.

The adoption of the capital gains tax exemption policy took four years from idea to implementation, whereas it took 10 more years to get from implementation to amendment. Moreover, private foundations had to prove their “worthiness” of such special tax treatment. To do so, they employed standard lobbying efforts, such as letter writing campaigns and presentation to government committees. But they also felt the need to redouble these efforts. Organizing themselves into a formal organization arguably provided private foundations with more legitimacy. Even more so, they appointed a respected former analyst from the Ministry of Finance to the position of president. Pearson knew how to navigate the policy-making process. In a nutshell, the outsiders brought in an insider.

With respect to the policy result in 1997, then-Minister Paul Martin made the decision to change the tax policy. According to the interviewees, “The committees were open to it because they included it in their reports, the opposition critics were open to it, and the department officials never changed their minds” (Interview no. 20; 37th Parl., 2003). The eventual success of the donation incentive, introduced as a five-year pilot, along with the increased oversight role of the CRA that was introduced at the same time, was perhaps “a compromise between the bureaucrats and the politicians” (Interviews no. 17, 26, and 12, November 20 and 21, 2014; Downs 1957), in that the role of the CRA as the “watchdog” for Canadian charities was also solidified in 1997. The overhaul of the CRA’s mandate was completed in 2004 with Bill C-31 (Canada 2004; Interview no. 17, November 21, 2015).

When it was introduced as a pilot program in 1997, the new capital gains tax exemption also “came with a stern warning” (Philipps 2003, 913) about the need to demonstrate financial returns in the level of donations and to “distribute the additional donations fairly among charities” (Canada 1997, 114). There is no data available on gifts of listed or traded securities

before 1997. As a result, measuring the impact of the tax measure on donation levels has proven difficult (Innes 2003, 908). In the published findings of the pilot program and in subsequent analyses, however, it is clear that donations of securities increased, but that large charities benefitted disproportionately. In spite of both this disparity and a failure to meet the goal of widening the distribution of benefits across organizations, the measure was made permanent in 2001.

In addition to private foundations being excluded as qualified recipients for tax exemptions of gifts of listed securities, enhanced political dealings rules were introduced in 1997, disbursement quotas were changed, and self-dealing rules were tightened for foundations (Department of Finance 2002). Flaherty observes that:

This [was] the same “cut-and-give” strategy that was employed by the Conservative government in 2006 when \$1 billion in cuts to the voluntary sector were immediately followed by a tax change that allowed donations of publicly listed securities to registered charities to be fully exempt from capital gains tax. (2006, quoted in Elson 2011, 155)

It was apparent from the interviews that perceptions of the motives and values of third-sector organizations, and of private foundations in particular, influenced the government’s policy amendments for the regulation of foundations; at the same time, the government obliged small requests for increased donation incentives such as the capital gains exemption. So, while the third-sector policy community, and foundations in particular, showed signs of growth and maturation during this timeframe, the policy focus on tax exemptions along with questions about foundations’ legitimacy and accountability resulted in significant blowback.

The relationship between foundations and the state in Canada is still shaped by the above-noted values, motives, and perceptions, all of which colour the judgments that are made regarding the legitimacy of the role of foundations in the delivery of public goods. In another study, Executive Director of the VSI Secretariat, Susan Carter, explored the “asymmetry” of the relationship between the government and the third sector, and the challenges posed by this hierarchical structure, saying, “I have heard public servants and politicians weigh the increase in expenditure on tax incentives with what they perceive to be a corresponding loss of control over spending. There is a fear is that more incentives will lead to a reduction in the ability of the state to influence public policy and the use of ‘public’ funds” (Burrows 2009, 8). In

Canada, this sentiment is not surprising and certainly had an impact on the government's relationship with foundations in this case. For this case, the relationship between the state and the third sector was both closed and top-down (Interview no. 12, November 21, 2014).

Increased resources were provided in 1997 to ensure compliance with regulations and to ensure information remittance requirements were met. Since that time, the third sector has placed increased emphasis on self-regulating as a way to be more proactive in this policy arena (Department of Finance 2002; Dobkin Hall 2006; Interviews no. 18 and 20, November 21, 2014).

The eventual extension of the capital gains tax exemption for the donation of publicly listed securities to private foundations shed light on some interesting trends in the involvement of Canadian foundations in public policy. It also came with some unintended consequences. As noted in one of the interviews, "Unfortunately, with the wise extension of the tax break to donations to private foundations came a series of anti-avoidance rules which will leave some private foundations" (Interview no. 42, May 17, 2017). What was particularly troubling was the lack of clarity regarding the excess business holdings and anti-avoidance rules. These accompanying policy changes reiterate and potentially reinforce the scepticism regarding the legitimacy, motives, and accountability of private foundations in Canada.

The ethical or moral reservation about such a policy was that those who had benefitted most from, and potentially taken advantage of, the current capitalist system would also be the ones making decisions about the nature of the social safety net within the third sector. On the one hand, another interviewee commented on a sentiment heard in certain public and third-sector policy circles, "that a lot of the people who are the wealthiest people in the world, are wealthy not because they're awesome people but perhaps they're wealthy because they are not such, such awesome people" (Anonymous interview 2015). On the other hand, according to another interviewee:

So, they are wealthy? So, what? They have more to give...That they use a charity to direct them [funds] is actually to the benefit of the public because once the assets are in the charitable sector there are rules about how they can be spent. If [for instance] Mr. Gates were to own that money directly, not through his foundation, and still said look, "I like this small charity that's targeting specifically an HIV/AIDS vaccine without anything else. I'm only

going to fund it a little bit at a time to make sure they don't veer off course," how different would that be from a practical perspective? But from a technical perspective, it's much different because he can change his mind at any time and take all that money and you know, go home. Once it's in the charitable sector, that money will stay within the charitable sector because that's how the rules were designed. So, at the end of the day I think we're probably better off. (Interview no. 20, June 6, 2016)

This has clearly been a longstanding and polarizing debate, across sectors, across counties, documented in book after book, by government after government. The issue cannot be resolved in one case, by one ruling government, by one committee, or by one foundation. However, we can learn to appreciate these contrasting perspectives, and take both into account in order to better balance policy decisions at the outset. Considerable time and resources of public and philanthropic sector personnel were expended in the consideration of this policy.

5.8 *Summary*

In this case, the policy agenda for the capital gains tax exemption emerged via policy transfer from the US from the efforts of an entrepreneurial individual philanthropist and third-sector policy advocate. The government's discriminatory approach to the treatment of foundations spurred reaction from the policy community that led to collaboration with in the third sector. The entrepreneurial roles of philanthropic foundations in this case advertently or inadvertently spurred significant policy changes: first, for the federal government's policy regime for the oversight of charitable organizations, with foundations serving as policy entrepreneurs interested in tax legislation; second, a fundamental change to the nature of tax incentives embedded in the *Income Tax Act*, as administered by the CRA; and finally, to further develop the foundation sector in Canada through the creation of the PFC. That said, the foundation sector focused on encouraging revisions to the donation incentive structure embedded in the *Income Tax Act* to entice fewer, larger gifts from non-monetary sources of income. While foundations were focused on this minor policy issue, however, the government overhauled both the oversight system for registered charities and the role of the CRA. The changes particularly affected foundations (Elson 2011; McRae 2011; Phillips and Smith 2011).

The advocacy process was protracted for the introduction and subsequent amendments related the capital gains tax exemption for securities donations. It required a legitimizing coalition and insider knowledge and contacts. It also took insider knowledge of the Department of Finance, adept lobbyists, professional legal and accounting advice, research and publications, and considerable outreach campaigns across a wide variety of networks. And, as noted, the debate regarding capital gains tax policy for charitable donations is ongoing. It appears that accountability or legitimacy of foundations continue to inform federal policy decisions and concerns, particularly around the potential loss of tax revenues, the desire to maintain more social policy direction by limiting such indirect expenses, or the underlying doubt regarding the motives. In comparison, the US capital gains tax exemption, upon which this idea is based, includes as eligible capital of private company shares, and real estate. For the third-sector advocates of the tax incentive, it won't be until those extensions to the legislation are made that the potential for revenue transfer from private wealth and public coffers might be realized by the philanthropic sector. That being said, the government of Canada may not share this policy objective.

6 UNIVERSITY CROWN FOUNDATIONS

This chapter considers the establishment of university Crown foundations across Canada from 1987 to 1998. It also considers the efforts of the policy entrepreneurs that pursued the policy agenda. In 1984, an opportunity was identified by a trust lawyer working with an individual donor in BC to increase the tax benefits of donating to post-secondary education (PSE) by giving through the Crown. The first university foundation was established in BC in 1987, with assurances from the federal government that these newly established PSE Crowns would benefit from the same tax incentives as the Crown. Thereafter, university Crown foundations were established across all the provinces except for Prince Edward Island (PEI). Through the pursuit of increased tax incentives by policy entrepreneurs in the third sector, Canadian foundations increased resources available to charities, although the advantage to universities was only temporary.

However, in the 1997 federal budget, the Liberal government changed the tax structures for Crown foundations, thereby removing the advantage that these *provincial* Crowns had over other public foundations. This was the same budget that introduced the capital gains exemption for the donation of publicly listed securities. It is also the same budget that increased restrictions and regulations for private foundations (both are discussed in Chapter 5). It is also the same federal budget that established a new *federal* Crown foundation, the Canadian Foundation for Innovation (CFI) (with an investment of \$3.15 billion to 2002). The subsequent 1998 budget established the Millennium Scholarship Foundation (with an investment of \$2.5 billion). Both have come under some scrutiny, but they have enabled the federal government to pursue its research and innovation agenda, as well as its economic development agendas through PSE scholarship funding (Aucoin 2003, 2). Through the establishment of these federal Crown foundations, the federal government is able to exert its influence on both research (innovation being a federal jurisdiction and an economic driver) and PSE policy (provincial jurisdiction, but the line between research and PSE is clearly quite fuzzy).

The information presented in this chapter is based on interview findings, archival research, freedom of information (FOI) requests, and secondary data. The chapter provides evidence of the emergence of a policy network for foundations in Canada as part of an effort to increase the availability of potential tax advantages to would-be donors to the PSE system. The case of the University of Saskatchewan's (U of S) Crown foundation is given particular

consideration. Of the nine cases of provincial legislation for university Crown foundations, this one was selected because of my personal familiarity with the organization. (Given the resources and timeline for this project, and given the scope of this dissertation, it was not feasible to document what transpired in each of Canada's other universities in a similar level of detail as the U of S.)

In the research that I had conducted on the capital gains tax exemption for the donation of publicly listed securities (Chapter 5), one of the interviewees spent quite a bit of time discussing another case involving Canada's evolving tax legislation for foundations. The individual suggested that the growth in fundraising capacity and professionalization at universities and hospitals across the country could be traced (at least anecdotally) to the establishment of Crown foundations (Interview no. 17, November 21, 2014). Another interviewee noted, "there was this simultaneous sort of creation of infrastructure and professionalism starting in the 1990s" (Interview no. 16, November 11, 2014). Ostensibly, the motivation behind this Crown foundations trend was that a special tax advantage for limitations on lifetime giving was only available for donations to the Crown, and by extension, Crown foundations.

The literature is largely silent on Crown foundations in Canada (with the exception of Aucoin 2003; Bromley 1992; Minton and Somers 2016; Neely 1993; and Bird 2015 [but the last only makes passing references to Crown foundations]). This case presented an opportunity to shed light on a unique organizational type of foundation in the Canadian third sector, and the larger Canadian landscape for foundations. My investigation of the establishment of Crown foundations for universities reveals their differences from parallel foundations, although they are frequently confused. Furthermore, this case provides more evidence of networking, and coalition building amongst policy entrepreneurs, much like the other two cases considered in this dissertation.

6.1 Background: Parallel Foundations and Crown Foundations

The idea to establish parallel foundations and Crown foundations was introduced to attract more gifts to universities. It is important to make a clear distinction between Crown foundations and parallel foundations. A parallel foundation is public; it "is a foundation set up by an operating charity to raise funds and hold investments primarily for [that] operating

charity” (Bromley 1993, 37). A parallel foundation distributes funds only to its charitable organization. For example, in their current form, hospital foundations are commonly parallel foundations. Parallel foundations, both in the past and today, have enjoyed similar tax benefits as other public foundations (excluding Crown foundations) with one exception: until 1984, parallel foundations were allowed to exclude from their annual disbursement quotas gifts in trust or with the directive that it be “held by the foundation for a period of not less than ten years” (Bromley 1993, 3; this is more commonly known as an endowment). The U of S’s parallel foundation, for example, was established in 1957 for precisely this purpose. In 1984, however, this “exclusion” from the 80% annual disbursement quota was extended to all other charities, removing the advantage. Prior to this legislative change, registered charities were essentially required to have a parallel foundation to hold endowments (Bromley 1992, 31).

Why bother with the parallel foundations after 1984? Despite the legislative change, endowments or bequests to a recipient charity remained more attractive than annual contributions on earned income because they are easier to make. Giving through parallel foundations also ensured the terms that donors prescribed were followed into perpetuity. Giving through a foundation provides a level of separation from the charity’s administration, and the foundation’s role is primarily to ensure the wishes of the donor are respected. In this situation, these foundations serve as valuable marketing tools for estate planning in that they allow donors to better direct their gifts while eliminating the administrative overload of having to establish one’s own private foundation. Community foundations perform a similar function, but the donations ought not be directed at a single NPO (Bromley 1992, 5; Hoffstein 2007; Minton and Somers 2016). It is important to note, however, that parallel foundations were not entitled to the same privileged tax treatment as the Crown at that time.

Under the *Income Tax Act*, “agents of the Crown are able to provide donors with special tax treatment for their gifts” (Neely 1994, 31). Thus, the advantage of Crown foundations was that donations to the Crown could be credited in a given year up to 100% of the donor’s annual income, “if the gift [was] to an Agent of the Crown” (Bromley 1993, 7). In contrast, up until 1996/97, donations toward all other charities (including public and private foundations) were only eligible for tax credits up to 20% of the donor’s annual income. Donations to the Crown, therefore, substantially reduced the tax burden paid by the donor in a given year. This tax break would therefore be advantageous to donors particularly, for instance, in years when an

individual's income was exceptionally high (Bowman 1996; Bromley 1993). This rule applied to the year of death and the prior year, making it an attractive planned giving incentive to be carried out via bequests. Like the capital gains tax exemption for publicly listed securities discussed in Chapter 5, the Crown foundation tax incentive was targeted at wealthier donors and was meant to encourage larger gifts.

6.2 *The Policy Agenda*

As noted, historically, Crown foundations (and the Crown) have had more tax advantages than all other types of charitable organizations, including public and parallel foundations. In Canada, 100% of donations to foundations are eligible for tax credit, but only up to a threshold of 20% of the donor's annual income. Whatever tax benefits exceed those amounts may be carried forward for up to five years. Historically, the same tax benefits applied whether a donor gave to a charitable organization, a public foundation, or a private foundation. But the *Income Tax Act* contained an overlooked clause, described above, that created a potentially significant advantage to donating to an "Agent of the Crown," as opposed to another form of charity (Bromley 1992). Thus, there was no annual limit on tax credits to Crown foundations, and they still had carry-forward privileges.

Blake Bromley, president of Benefic Group and an expert in charity law, uncovered this tax incentive for agents of the Crown in the early 1980s. Bromley had been working to steward a potential gift from a major donor to the University of British Columbia (UBC) when he uncovered that donations to Crowns offered better tax incentives than did registered charities (Bromley 1992; Interview no. 16, November 17, 2015). The finding was of considerable importance to the donor, who was interested in donating to PSE. One interviewee described Bromley as the "smart tax lawyer" (Interview no. 16, November 17, 2015) who found this tax incentive that was unique to Crown agencies, which by extension, universities and hospitals might also qualify for. Quickly, Bromley requested that the premier of British Columbia "pass legislation to create a Province of British Columbia Endowment Agency" (the precursor to the Crown foundation formulation of the policy) for universities and hospitals in the province (Bromley 1992, 8).

The first university Crown foundation in Canada was created in British Columbia in 1987 (Neely 1994, 34). Bromley acted not only as the main policy proponent, but also as an

architect in the background of the draft legislation. Still, since the first request to the province had been submitted in 1984, the policy process was protracted. But, according to Bromley, it was important to provide some distance between the “agent of the Crown,” i.e., the ministry responsible, and the donor; this position has since been criticized. As a result, it was recommended to establish parallel Crown foundations (Bromley 1992). The public, parallel foundation therefore, would also be an “agent of the Crown” (Bromley 1992, 7).

It is important to note that at the same time, in order to provide all the necessary guarantees, Bromley submitted a request to the CRA to ensure that “British Columbia [would] receive approval from federal Finance and acquired an advance ruling from Revenue Canada that donations made to Crown foundations would be considered gifts to the Crown for tax purposes” (U of S, 1994). Subsequent to the endorsement by the BC cabinet committee responsible for exploring the opportunity, Bromley was asked to write a first draft of the proposed legislation (Bromley 1992).

6.3 Policy Implementation: Inter-Provincial Policy Transfer

The creation of university Crown foundations swept the country following the establishment of the UBC Crown foundation in 1987.⁹ In an article presented to the Canadian Association of Gift Planners (CAGP) in 1994, Sara P. Neely documented this pan-Canadian trend of establishing Crown foundations. Accompanying her summary is the data I retrieved directly from the governments of Québec, Nova Scotia, and Newfoundland. Table 6-2 summarizes the findings and updates the data.

Prior to the establishment of these Crown foundations for universities across the provinces in the late 1980s and 1990s, through the professional networks and contacts of Bromley, Minton, Sommers, and Neely (all influential experts on estate planning and philanthropy in the United States and Canada, as noted above) advocated for the policy agenda. A policy network was spurred on as a result of these efforts. According to the interviews conducted for this case, Minton was hosting educational sessions on planned giving, through the Council for the Advancement of Education (CASE) in the United States. Minton, who was

⁹ Colleges in BC, as in other provinces, including Saskatchewan, were already agents of the Crown and therefore were not contemplated in the draft legislation (Bromley 1992; Interview no. 41, April 19, 2017).

from Seattle, also had connections in Vancouver. Individuals in Canada heard about these educational seminars and were interested in offering them for Canadians. The policy advocates shared information on the Crown foundation opportunity with others across the country between 1987 and 1993.

Table 6-2. Establishment of university Crown foundations across Canada

Province	Year	University Crown Foundation Structure
British Columbia (BC)	1987	<i>University Foundation Act</i> – umbrella legislation allowed for Crown foundations for each university
Alberta (AB)	1991	<i>Universities Foundations Act</i> – umbrella, allowed for Crown foundations for each university
Saskatchewan (SK)	1994	<i>Crown Foundations Act</i> – established a foundation for each U of S and the University of Regina
Manitoba (MB)	1993	The <i>Manitoba Foundation Act</i> – umbrella for any university or college established under MB legislation; also included hospitals and cultural organizations
Ontario (ON)	1992	<i>An Act Respecting University Foundations, 1992</i> – created Crown foundations for each ON university (Bill 68)
Québec (QC)	1998	Enacted following the 1997 federal budget with the 75% contribution limit ¹⁰
Nova Scotia (NS)	1993	<i>University Foundations Act</i> – umbrella, allowed for Crowns for each of NS's 13 universities (although none were established)
New Brunswick (NB)	1993	<i>Higher Education Foundation Act</i> – allowed for the establishment of Crowns for each university, college, and education institution
PEI	NA	No legislation.
Newfoundland (NF)	1994	Lobbied to establish a Crown for Memorial University of Newfoundland. Not completed.

Sources: Neely 1994; Bromley 1992, 12; Sask. 1994; Minton and Somers 2016.

¹⁰ What is also interesting, though unfortunate and likely coincidental, is that Québec's university Crown foundations were established in 1997, after the 1996 announcement (discussed below) that levelled the playing field for this donation incentive. By 1997, additional restrictions on foundations had been enacted, thereby

A CASE three-day planned giving seminar was held in Banff in March 1990 to discuss the idea of establishing Crown foundations. As outlined in Table 6-2, the establishment of university Crowns across the provinces took off shortly thereafter. In each province, the nature of the legislation varied with respect to the structures of the governing boards, and how autonomous Crown foundations were vis-à-vis their provincial governments and the universities. Nevertheless, the purposes of the university foundations (like hospital foundations) in all the provinces were similar: “to solicit, receive, manage and distribute money and other property” in support of the education, research, and outreach missions of the organizations (Neely 1994, 30). This is evidence of the growth of the foundation sector in Canada, which resulted from the pursuit of third sector policy actors’ agendas.

The Banff conference noted above was sponsored by the Canadian Association of Educational Development Officers (now the Canadian Council for the Advancement of Education) and was attended by chief development officers and, in a few cases, directors of planned giving from across the country (Minton and Somers 2016, 5; Interview no. 41, April 16, 2017). At the time, planned giving was a burgeoning professional field; it has since grown from 10 or so members in 1992 to approximately 1,300 members today. The Banff Centre conference was an opportunity to promote the Crown foundations policy, and it also offered a chance for collaboration within the foundation sector and for planned-giving professionals in Canada (Minton and Somers 2016).

In 1992/93, this country-wide network of gift planners (i.e., fundraising professionals, estate and trust lawyers, bankers, trust officers, accountants, investment advisors, and sector advocates) began working together. As a result of these developments, the next case of network building in the sector was the creation of the CAGP in 1992. In 1994, Minton and Somers noted the transformation of the sector:

In 1993, the newly formed Canadian Association of Gift Planners encouraged
Lorna Somers and me to produce a basic reference to serve the growing

eliminating the tax advantages that had until then been unique to foundations. In this, Québec lost an important opportunity. It is not clear whether Québec continued to pursue this policy agenda due to a lack of knowledge of the legislative changes or whether they knew, but they nevertheless pursued the policy agenda. Some thought that Crown foundations were still a good marketing tool for will and estate planning. Or perhaps the universities continued pursuit of this policy agenda is evidence of the incrementalism that is associated with institutionalization.

number of individuals and charities interested in planned giving. The result was the first edition of *Planned Giving for Canadians*, published in 1994. (2016, xix)

The formalization of the planned giving policy network (through the creation of new umbrella organizations) in Canada occurred under the auspices of the CAGP (Bromely, 1993; Interview no. 38, September 9, 2016; Interview no. 41, April 17, 2017). This group continues to lead conversations with government regarding tax legislation for major and planned giving (Minton and Somers 2016, 9). The CAGP held its first annual conference in 1994. It was the first Canadian umbrella fundraising organization to include professions other than fundraisers (e.g., lawyers, financial advisors, estate planners, accountants) and included accountants or tax lawyers, even those from the private sector, which speaks to the development of the policy network. (The Association of Fundraising Professionals, by way of contrast, is only for fundraisers.) The nexus of these burgeoning policy networks was the Crown foundation policy agenda, in addition to other common interests and learning opportunities (Interview no. 41, April 19, 2017).

Before the policy was implemented in Saskatchewan in 1994, Somers and Minton had been spreading the word at their educational seminars and professional networks about the tax advantages of giving to universities through Crown foundations. Given that the professional fundraising sector was only then beginning to grow, it was a close-knit group of people who often shared success stories, lessons learned, and other opportunities with one another.¹¹ According to the interviews conducted for this case, the conversations between members of this policy network at the time focused on understanding and advocating for better tax incentives for giving.¹² They were of a different nature than the conversations in the professional community today, where the focus is more broadly on understanding motivations for giving, not just tax incentives (Interview no. 35, Aug. 19, 2016; Interview no. 41, Apr. 2017). Thus, through this policy network, and spurred by the Crown foundations, knowledge about the Crown foundation opportunity for universities spread across the provinces.

¹¹ This group eventually became a regional members' association of the CAGP.

¹² This is different than the nature of the conversations in the professional community today, where the focus is now more on understanding motivations for giving, an interesting corollary to this research. (Interview no. 35, August 19, 2016; Interview no. 41, April 2017).

6.4 The University of Saskatchewan Crown Foundation

The U of S established a parallel foundation in 1957; the university was not at that time considered a registered charity. In order for donors to receive the same tax benefits as they would with other charities, they could donate to the parallel foundation – the U of S Foundation – rather than the university proper. In the intervening period between the establishment of the U of S Foundation and the U of S Crown Foundation, however, the U of S became a registered charity. This followed the establishment of the 1966 legislation requiring the registration of charities in order to qualify for distributing tax receipts. This organization stayed intact until 1996/97.

Conversations with the government of Saskatchewan to establish a Crown foundation for the U of S began as early as 1992. Just a few individuals at the U of S and in the government of Saskatchewan can be identified as the key players in this example. One such individual suggested, that with regard to the process, that “it was motivated by the tax advantages” (Interview no. 35 August 30, 2016). The first of these was Director of Development (a term that means professional fundraising) at the U of S, who had come in contact with Somers through this informal network of planned giving professionals. The trusts officer at the U of S was a second key policy actor in this case. Both worked with a liaison in the province’s Ministry of Advanced Education. They worked together to see if there was any interest in pursuing the idea of establishing a Crown foundation for the university. Finally, in January 1994, then-president of the U of S, George Ivany, presented a request to the Board of Governors to approve in principle the establishment of a U of S–affiliated Crown foundation and to support management’s conversations with the government of Saskatchewan to do so. In the cases of both UBC and the U of S, the endorsement of the university presidents and the boards were required to move the policy proposals for Crown foundations forward with the provincial governments.

The U of S’s board documents stated that the policy objective was to create foundations for each of Saskatchewan’s two universities, i.e., the U of S in Saskatoon and the University of Regina (U of R). However, interviews indicated that the policy idea was initially proposed just for the U of S. Apparently, once it got onto the policy agenda, the U of R, the province, or both

suggested that the legislation be pursued for both the U of S and the U of R (Interviews no. 35 and 37, August 30 and September 5, 2016). It is possible that tensions between the two universities over base operating funding from the province had the effect of changing the scope of the policy. It would have been reasonable that both have equal opportunity to access to other potential revenue streams, such as philanthropic funds.

The benefits to donors of donating through Crown foundations, as described to the U of S Board of Governors in the request to establish the U of S Crown foundation, was that it would help donors to “obtain immediate and considerable tax relief; make significant gifts to the university of their choice; maximize flexibility in their charitable giving; provide the donor or a loved one with recognition; [and] create, maintain or enhance those university programs which the donor supports” (*CA Magazine* 1993 quoted in U of S 1992). This reasoning was convincing and, in 1994, the *University of Saskatchewan Foundation Act* established the University of Saskatchewan’s Parallel Foundation as a Crown corporation of the Province of Saskatchewan (Act, 1998, chapter U-7, 3).

The U of S parallel foundation, like its Crown foundation, was governed separately from the university. Both were governed through a board of trustees made up of the Chief Justice of Saskatchewan, the university chancellor, president, and chair of the board, as well as the president of the U of S Alumni Association. The one difference between the two foundations was that the parallel foundation, established four decades earlier, also required three to five elected or appointed trustees (Saskatchewan 1957). The more limited board membership made the Crown foundation a more manageable organization in terms of being able to ensure that the gifts were directed according to the donors’ wishes, minimizing the potential for government interference. Unfortunately for these policy entrepreneurs, the Crown foundations policy was amended with the 1997 federal budget, levelling the playing field for all types of charitable organizations in Canada, except private foundations with respect to the capital gains tax exemption.

6.5 Policy Evaluation

Bromley anticipated that there might be increased scrutiny by the CRA on these new foundation types. In his 1993 article on this policy process in British Columbia, Bromley states, “It is important that Crown foundations be managed responsibly so that the privileges

which result from their creation will not be attacked and withdrawn by Revenue Canada” (14). Indeed, the 1997 Federal budget eliminated disparities between tax treatment of Crown foundations and other foundations. The budget indicated that the policy would:

...adopt a common limit of 75% of net income for donations to all charities by individuals and corporations for the 1997 and subsequent taxation years – raising the limit for most charities from 50%, and lowering the limit for donations to the Crown and Crown foundations from 100%. With this proposal, all charities would be able to attract donations on a level playing field.... For donations to charities other than the Crown, these proposals would result in the limit being raised from 20% prior to the 1996 budget to 75%. (Canada 1997, 112)

It is interesting that in the same budget, the Liberal government also established a new federal Crown foundation, the CFI, with an investment of \$3.15 billion to 2002. The following year, in the 1998 budget, the Millennium Scholarship Foundation was established with an endowment of \$2.5 billion (Aucoin 2003; Minton and Somers 2016).

Other than inferring that the policy changes would “level the playing field” of tax incentives available to all charities, there were no official statements from the federal government regarding the rationale for the above-noted changes. Anecdotally, in referring back to the federal government’s 1996/97 stated policy objectives in the legislation for the capital gains tax exemption (as discussed in Chapter 5), the establishment of Crown foundations for universities both contradicted and complied with the Ministry of Finance’s policy directives on charitable tax structures. One stated expectation of the capital gains charitable tax incentive was that it would increase contributions to Canadian charities, but in an equitable way across both organizational types and across policy domains (e.g. health vs. education vs. poverty relief), which might have been a consideration for the Crown foundation policy too.

The second stated policy objective for the capital gains tax incentive, which might also have applied to the Crowns, was to increase major giving, i.e., entice fewer but larger capital donations. Within the structures of the Crown foundations, major giving was incentivized by the receipt of tax benefits for donating 100% of annual earned income. Unfortunately, the window of opportunity did not last. One of the interviewees stated:

Turns out, unfortunately for us, Paul Martin, a year or two after that changed the federal legislation and tax laws to give everybody the same breaks as a foundation so the thing we'd worked like seven years to create became useless two years later and we'd just begun to run gifts [through the Crown foundation]. (Interview no. 35 August 30, 2016)

The Crown foundations would increase major gifts to universities. But at the same time, it gave PSEs an advantage over other types of charities, creating a sort of unfair competition in the philanthropic sector. In short, the proliferation of Crown foundations favoured hospitals and universities. In addition, because these policy domains are so heavily funded by government, such tax incentives would essentially allow lost tax revenues to be directed by donors, moving decision-making control away from the democratic locus of power, as well as from the federal government to the provincial governments.

6.6 Analysis

Crown foundations gave universities an advantage over other charitable organizations because they could attract more gifts from individuals and other donors through added tax advantages to prospective donors. It would help them to solicit more wills, bequests, and estates (it is a planned giving strategy, and the Crowns were a great marketing tool) (Minton and Somers 2016). For instance, Crown foundations, as public foundations, are at “arm’s length” from government, and therefore from democratic processes (Aucoin 2003, 2). This gives them more flexibility in terms of advocating for particular positions that may not align with the views of the government of the day. As one interviewee noted, “That’s why people set up or give to foundations as opposed to directly to charities – [when at] arm’s length [then] we use existing resources, leverage existing resources, enhance existing resources to accomplish this new purpose or broader purpose” (Interview no. 41, April 30, 2016). This individual went on to indicate that the network of donors who advocated for these Crown foundations was well connected to local community in a way that (they believed) fostered better direction of major gifts.

According to interviews conducted for this research (e.g. Interview no. 41, April 19, 2017; Interview no. 17, November 17, 2014), policy transfer across the provinces led to a “tremendous influx of activity and dollars generated within the sector across the country”

(Interview no. 17, November 17, 2014). In Saskatchewan, though, the progress toward implementation was protracted by provincial politics. This stymied the potential for exponential philanthropic revenue growth for the U of S. In 1991, the Progressive Conservative government under Premier Grant Devine was defeated by Roy Romanow's NDP. According to one interview:

It took six or seven years to actually get it [a Crown foundation for the U of S] done because it took an act of the Legislature... It turned into a giant mess because I had it 90% of the way through the Conservative government and all my connections there, and then Devine lost the election and the NDP took over. Everything that was in the works that related to the previous government was basically trashed... it took two or three years to convince the NDP that it wasn't some kind of capitalist "whatever." (Interview no. 41, April 19, 2017)

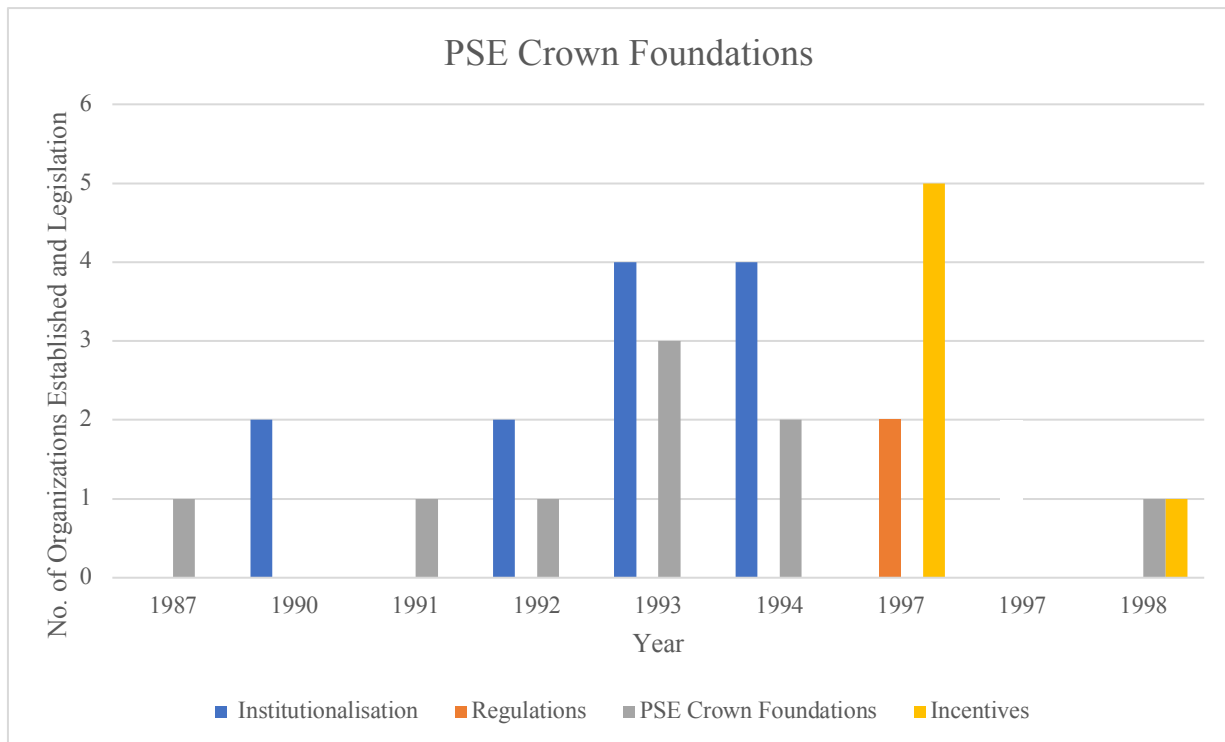
This points to the importance of the political decision-makers in moving policy agendas forward related to foundations, even when they are low-risk public Crown foundations, enacted only through provincial legislation. A review of the timing of these changes (albeit only at a high-level level) provides another indication of the relation between regular election cycles and policy innovations for foundations.

It is also documented that the BC case took at least three or four years from idea to implementation (Bromley 1997). The protracted timelines in Saskatchewan and BC are indications of just how much commitment is required to push such an innovative policy idea to implementation. In addition to convincing the provincial governments of the value these new foundations could bring, in hindsight, the policy advocates might also have paid heed to the federal view on the proliferation of provincial Crown foundations for universities and hospitals, which involved a devolution of power over the policies and investment in both the education and health sectors: from the federal government to the provinces, and from the provinces and universities, to private donors. This is important because "provincial governments continue to be the largest source of government revenue for non-profits by a wide margin, due to their jurisdictional responsibility for health, social welfare, and education" (Elson 2016, 16). Before Crown foundations could really have had an impact, one interviewee commented, "the role of the Crown foundation might well have been very extensive and very important if it had

continued” (Interview no. 41, April 19, 2017). Establishing the correlation between legislation and this “influx of dollars” and the timelines from idea to implementation across the other seven provinces requires further research and is beyond the scope of this dissertation.

Alongside the establishment of Crown foundations for university, between 1990 and 1994, other umbrella organizations also emerged around gift planning in the education sector. The policy entrepreneurs in the small policy networks noted above realized the potential advantages of being more organized. For example, Bromley published an article sharing information about the potential of Crown foundations for fundraising in 1992. Neely, then a practising professional fundraiser at the Vancouver Hospital Foundation, wrote an article about this Canadian policy trend in 1992, which she presented to the CAGP in 1993 and published in *Philanthropist* in 1994. In 1994, Somers and Minton also published the first edition of *Planned Giving for Canadians*. Figure 6-2 below illustrates the high-level connections between efforts with the third sector in support of or in alignment with the Crown foundation policy agenda for universities.

Figure 6-2. Establishment of PSE Crown foundations’ and regulations for foundations



The Crown foundation tax incentive opportunity that was first enacted in 1987 at UBC, and was followed by inter-provincial policy transfer. The policy transfer was spurred by the informal, personal connections between the growing cadres of tax experts for charitable giving, and planned giving professionals at universities and other third-sector organizations, especially hospitals (where there were also Crown foundations). The data indicates that in just under a decade, 12 more developments in the third sector took place alongside these important policy changes for Crown foundations. These growth in the number of university Crown foundations were happening in parallel from 1987 to 1994. Then, after the 1997 election when the Liberal Party took power, swift shifts were made to the federal policies relating to Crown foundations – including the introduction of the lifetime limit of 75%, which lowered the limit for Crowns from 100% and increased the limit for other charities, including non-Crown public foundations and private foundations, from 20% to 75%, thereby leveling the playing field.

With respect to the policy entrepreneurship, while the PSE sector benefitted from this tax incentive for a short while (1987–1997), the policy environment for foundations changed in Canada. The idea of Crown foundations for universities was a potential solution to an ever-present, systemic policy “problem” – resource scarcity. The “deep and widespread resource crunch” in the third sector (Reed 2003, 5) was compounded by the fact that, in the 1996/97 federal budget, the government was also “offloading” public services, creating increased demand for philanthropic dollars, i.e., alternative revenue sources for charities. Crown foundations were nonetheless provincial entities that created tax expenditures at the federal level, but they left decision authority and influence in the hands of foundation donors and directors at the provincial level (Howard 1999; Laforest 2009; Phillips 2003).

With respect to the increasing policy engagement, the small network of individuals who were participants in this Crown foundation policy agenda eventually formed a chapter of the Canadian Association of Gift Planners (CAGP) (Interview no. 41, April 19, 2017). In addition, a Canadian arm of the Council for the Advancement of Education (CAE) was also established (Interview no. 35, August 19, 2016; Minton, Somers 2016, 6). The establishment of umbrella organizations (like the establishment of the PFC in the capital gains tax exemption for publicly listed securities, discussed in Chapter 5) thus enabled the policy transfer of the Crown foundation tax incentive across the provinces. The effect was also to further institutionalize the foundation sector in Canada and the third sector advocates for such organizations.

The 1998 legislation extended additional tax advantages to other foundations (non-Crowns) by raising the lifetime contribution limits to 75%. The government of Canada eliminated the unique advantage provided to universities and hospitals through Crown foundations by lowering the previous lifetime limit from 100% to 75%. Thereafter, all registered charities, including Crowns, qualified for tax benefits for donating up to 75% of annual earned income, including private foundations. Interestingly, the capital gains tax exemption (discussed in Chapter 5) was also introduced as a pilot project in the 1997 federal budget.

6.7 Discussion

The policy entrepreneurship in this case was closely connected to the expansion of the third sector in Canada in the early 1990s. Evidence is available on the policy transfer of this innovative agenda across the provinces. Evidence is lacking, however, with respect to the actual policy outcomes or outputs that result from the creation of Crown foundations for universities across nine provinces. Anecdotally, and according to the interviews conducted for this research, the combination of the capital gains tax exemption for donations of publicly listed securities, along with the proliferation of Crown foundations for universities led to an inequitable distribution of donations geographically and by charitable cause. Hospitals have been registered as charities in Canada since 1973. There were 263 registered hospital foundations in 2016.

As of 2017, there are no foundations registered with the CRA for Canada's provincial universities. Several exist at the following organizations: University of Victoria (first registered PSE foundation in 1967); Royal University Hospital in Saskatoon (1983); Mount Royal University (1991); Vancouver Island University (1994); York University (2002); and, the University of Winnipeg (2002). In total, there are 26 foundations associated with universities in Canada, six of which are noted above. The idea of establishing Crown foundations for provincial universities in order to access the incentive for the Crown was novel, although short-lived. The window of opportunity really only lasted for seven years, from 1987–1994. In 1997, the federal government levelled the playing field by enacting the 75%-of-lifetime-earnings rule.

The policy entrepreneurs were effective in this case at setting the policy agenda and transferring it from province to province in a relatively short period of time. In addition to the provincial university Crown foundations, 19 of the 26 (currently registered) PSE foundations were established between 1981 and 2005. However, like the case presented in Chapter 5, they did not have their eye on the ball. While the policy community was focused on a single tax incentive, the federal government changed the playing field. This is further illustrated by the immediate establishment of the Millennium Scholarship Foundation in 1998.

In that respect, this case has some similarities with the exclusion of private foundations from the capital gains tax exemption for the donation of publicly listed securities, presented in Chapter 5. In the case of Crown foundations, in 1996/97, the policy entrepreneurs for the Crown foundation policy agenda were surprised that the tax advantage for these organizations was suppressed in the federal budget. In spite of assurances Bromley had received in 1988, the federal Department of Finance made significant changes to the fundraising landscape in the *Income Tax Act* in 1996/97, eliminating the advantage that would have otherwise continued to have been bestowed on hospitals and universities across the provinces.

The potential for a corresponding increase in foundations' policy influence in this case was accordingly observed. Conversations between colleagues turned into conferences, conferences turned into articles, articles turned into books, and informal networks and connections turned into professional umbrella organizations. The development of the sector was in its infancy when Crown foundations were being established across the provinces. This policy transfer sparked the CAGP and the CASE chapter for western Canada. The CAGP was started in 1993 and held their first annual conference in 1994. Neely (1995) and Bromley (1993) wrote articles and made conference presentations about the Crown foundation opportunity. Somers and Minton brought together the learnings from a number of such occasions, along with their research and Minton's US experience into the first edition of the *Guide to Planned Giving for Canadians* (2016).

These efforts quickly moved from a focus on tax planning to a broader focus on the professionalization and development of individuals working in the foundation and philanthropic sectors. For the first time, there was an umbrella organization representing more than a single related profession in the CAGP. However, the legitimacy of the foundation sector, and apprehensions about their driving motive prompted blowback from the federal

government. These findings are consistent with observations about the role of the government vis-à-vis the third sector in Canada:

Critics have also observed that the charitable tax credit transfers decision-making power over what services are funded from elected governments to individual philanthropists, and especially to a small group of very wealthy donors. Besides raising concerns about democratic control of public services, this system is likely to result in disparate levels of funding to different services depending, not on the needs of citizens, but on the preferences and wealth of those who make charitable gifts. (Philipps, L. 2003, 916)

The rollback to 75% and equalization to all charities for the lifetime giving tax incentives effectively put the decision power for spending in these fields back at the federal level. In spite of the setback when the Crown foundation opportunity was quashed, the collaborative efforts persisted.

Relations between the third sector and the state had previously been loosely coupled and multilateral. In this case, evidence of these relations now becoming increasingly formalized, hierarchical, and unilateral is presented. Previous research has pointed to the closed nature of policy processes in the federal Department of Finance (Elson 2011; Interviews no. 18, 19, 22, 25, 26; McRae 2011; Phillips and Smith 2011. See also Appendices A and B). These were reaffirmed in the research conducted for this case study, and through the interviews with policy participants in this case. This reflects the ongoing assumptions about state-third sector subordinate relationships that have underpinned developments in the sector since the Carter Commission (1969).

6.8 *Summary*

In this case, Crown foundations were an instrument of policy entrepreneurship coming from the third sector. The objective of the proliferation of these foundations was to increase financial resources available to universities. This policy entrepreneurship that was mobilized again around a tax incentive for foundations further precipitated organizational networking across the country. Informal personal and professional networks created channels to share information about this potential tax incentive for universities. In short order, those networks became formal umbrella organizations: the CAGP and the Canadian Council for the Advancement and Support

of Education (CASE). This is similar to the establishment of the PFC in the case study presented in Chapter 5.

The establishment of the university Crown foundations from 1987 until 1998 is a clear example of the opportunities and constraints facing foundations' policy engagement in Canadian public policy. It illustrates potential limitations to the influence of foundations for social policy, and PSE policy especially. The policy transfer was driven at the provincial level and by third sector policy entrepreneurs, right up until the 1997 federal budget. At that point, the federal government's policy agenda superseded these efforts. The provinces can incorporate as many Crown foundations as they like, but the federal Department of Finance can also eliminate the advantage of doing so with the stroke of a pen by amending the *Income Tax Act*. It did just that in 1997 with extension of the 75% maximum lifetime contributions to all charities, not just the Crown, and lowered the 100% advantage of donating to the Crown down to 75% (while in that same federal budget establishing a new federal Crown foundation).

7 HEALTH-RESEARCH POLICY

The Gates Foundation and the government of Canada entered into MOUs for the Canadian HIV Vaccine Initiative (CHVI) in 2006 and 2010. When the Gates Foundations' predetermined vaccine policy solution failed in 2008, it generated a good deal of controversy for the partners. In spite of the failure of the vaccine trials, the government and the foundation revised and renewed the MOU in 2010. The MOU continued through to 2014, with funding ending in 2016. In this official partnership, the policy entrepreneurs facilitated the expansion of the role of the Gates Foundation in Canadian public policy for HIV/AIDS research. The Gates Foundation and its advocates encouraged the establishment the Canadian version (CHVI) of the international scientific policy network, the Global HIV Vaccine Enterprise (GHVE). This was an extraordinary formal partnership between an international foundation and the Canadian government.¹³ *Post hoc* assessment might conclude, however, that improved collaboration, and research contributions were the main results of partnership, whereas the original goals were much more ambitious (Canada PHAC, 2017).

Looking generally at the role of foundations in public-policy making, one would think that an organization with as much influence and clout as the Gates Foundation, with as many resources at its disposal, would have been more successful than this case indicates. However, the policy direction changed course mid-track, and the CHVI pilot-scale facility project for HIV/AIDS vaccine manufacturing was cancelled in 2009/10. I selected this case because it seemed inconsistent with what I had been reading about the extent of the Gates Foundation's influence for health-research policy internationally (Brison 2005; Ashton 2011; Rushton and Williams 2011; Ulbert 2011; Hewa and Stapleton 2005).

As with the previous two cases examined in this dissertation, the research and readings that I consulted for this case showed that public discourse on the role of the Gates Foundation was polarized. People were either in favour of amplified roles for foundations in policy

¹³ Other records of extraordinary donations from large, private American foundations include several reported in the early 20th century. In 1951, the Massey Commission reported that the Carnegie Corporation had invested approximately \$7.4 million in Canada since 1911. The Rockefeller Foundation had invested \$11.8 million since 1914. These contributions were in keeping with the Carnegie Corporation's mission to "facilitate the diffusion of knowledge," and the Rockefeller Foundation's mission to "promote the well-being of mankind" (Brison 2005, 19). These early efforts reportedly implied "how the industrialists and their advisers extended their power and influence beyond the world of production and into the broader realm of social and cultural relations of civil society" – in other words, institutionalization (20).

making, or suspicious of their motivations and/or their legitimacy (e.g., Elson 2011; Lindquist 1989; Stewart 1996; Stone and Garnett 1998). For this case in particular, the rhetoric about how much impact the Gates Foundation had on government policy processes internationally, with the World Health Organization (WHO), and in other countries, suggested that a similar level of influence might be expected when it came to its policy role in Canada.

When considering the policy role of foundations, this is an important example of a partnership between the largest philanthropic foundation in the world and the government of Canada to address the HIV/AIDS pandemic, “one of the most complex policy problems of our time” (Esparza 2000). Among other obstacles, the partnership seemed to have prevailed when it was renewed in 2010 despite the cancellation of the capital project. However, in 2014, to the chagrin of the Public Health Agency of Canada (PHAC) contributors, the CHVI partnership between the Gates Foundation and the Canadian government was up not renewed again. A final report was completed in October 2016 and released in 2017 (Canada 2016).

7.1 Background: The Gates Foundation

The William H. Gates foundation was established in 1994 by Bill Gates, Sr. It evolved into the Bill and Melinda Gates Foundation in 1999 (and is referred to in this text as the Gates Foundation), through a merger with Bill Gates, Jr.’s Gates Learning Foundation (Ashton 2011; McCoy and McGoey 2011). The foundation is the largest in the world, and as of 2006 (when the partnership with the Canadian government was instituted), it had approximately \$60 billion in assets. As of 2016, the foundation had \$40 billion in assets. This amount includes the donation of the majority of Warren Buffet’s wealth to the Bill and Melinda Gates Trust, which is the holding body for the charitable foundation (KPMG 2017). The Gates Foundation has two areas of funding priority: the global health program and a US education program. In keeping with the foundation’s priorities, about 20–25% of the foundation’s annual spending goes toward global health funding. Much of this capital is provided through intermediary arrangements such as global health partnerships or public private partnerships (Ashton 2011).

Since its establishment, the Gates Foundation has been an influential policy actor in international development, especially in global health (Ulbert 2011). This foundation has an international policy role, which it spurs on by partnering with international government organizations (IGO) like the WHO, or directly with countries, especially in low and middle-

income countries, to fund health projects and programs. The Gates Foundation is both lauded and criticized for its public policy role. McCoy et al. (2009) capture the legitimacy challenges faced by the foundation in an article entitled, “What Has the Gates Foundation Done for Global Health?” The authors reviewed over 1,000 global health grants the Gates Foundation awarded between 1998 and 2007, concluding it should take measures “to improve systems of [self-] governance; to be more transparent in decision-making; to devise a grant plan that better reflects the global burden of disease; to invest more in low-income country recipients;” and to actively engage allies of the foundation in decision-making (McCoy and McGoey 2011). Proponents of the Gates Foundation responded that the foundation represented a relevant and effective way to address global health problems; that its work was altruistic; that the foundation was a private organization operating in a capitalist economy and should be allowed a certain amount of autonomy; and, (contrary to McCoy et al., among others) that the foundation is apolitical in its approach (McCoy and McGoey 2011; Ulbert 2011).

7.2 Policy Agenda

In 2003, an article co-authored by leaders in the scientific policy community appeared in *Science*. It argued strongly in favour of increasing international vaccine manufacturing capacity to address the HIV/AIDS pandemic (Klausner et al. 2003)¹⁴. Shortly thereafter, in 2004, the first author of the article and then-president of Global Health at the Gates Foundation, Dr. Richard Klausner, spearheaded the creation of the Global HIV Vaccine Enterprise (GHVE, pronounced “GHVE”). In 2003, GHVE developed its first Scientific Strategic Plan and published it in 2005. The plan was authored by the coordinating committee of GHVE and was created with the collaboration of policy makers, funders, advocates, and over 400 scientists and researchers. The primary objective of the strategy was to “accelerate HIV vaccine research and development” (GHVE 2005). The plan identified vaccine-manufacturing capacity as a critical

¹⁴ The specific policy entrepreneurs within the scientific policy community for this case included R.D. Klausner and H. Gayle of the Gates Foundation; A.S. Fauci, Director of the National Institute of Infection Disease, and other staff of that organization; S. Berkley with the IAVI; José Esparza of the WHO HIV Vaccine Initiative; researchers from the University of Washington, Duke University, University of Oxford, University of Natal, and University of Lausanne; as well as representatives from the Vaccine Advocacy Coalition, the Centres for Disease Control and Prevention, VaxGen Inc., the Agence Nationale de Recherches sur le SIDA (ANRS), UNAIDS, and the National Centre for AIDS/STD Prevention.

roadblock to the research and development of an HIV vaccine. The article represented consensus in the policy network.

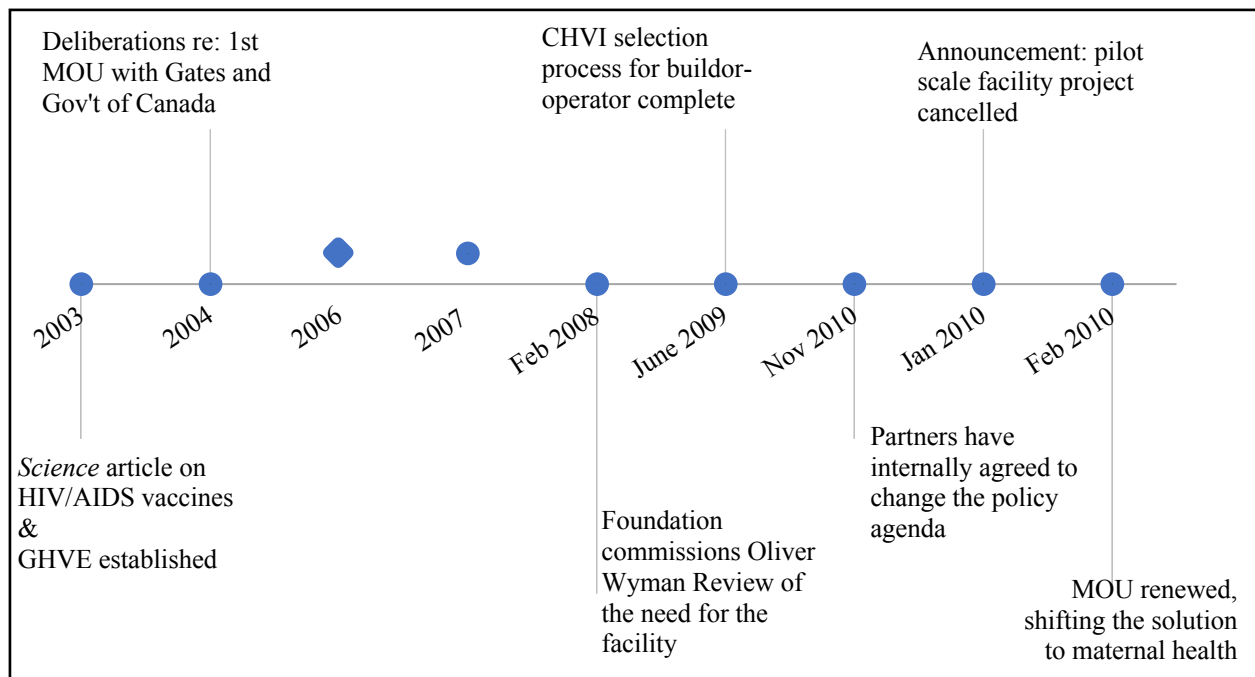
The Gates Foundation has advocated for and funded a number of initiatives dedicated to the development of an HIV vaccine, including the Collaboration for AIDS Vaccine Discovery, International AIDS Vaccine Initiative (IAVI), and GHVE. The Gates Foundation released its HIV strategy in 2005 as part of its broader global strategy directed at immunization programs. This HIV strategy stated that vaccine development was a priority. Bill Gates stated, “Even a modestly efficacious first-generation vaccine could have a profound effect on the AIDS pandemic. It is estimated that a vaccine with just 50 per cent efficacy provided to 30 per cent of the population would prevent an estimated 17 million infections over 15 years and result in substantial financial savings” (Gates 2009). In this 2005 strategy, the Gates Foundation confirmed its commitment to implementing the recommendations of GHVE’s scientific strategic plan.

Around the same time, in 2004, the Canadian federal government established the Federal Initiative to Address HIV/AIDS, an intra-government umbrella organization made up of all of the government-funded programs dealing with the disease. The Canadian Public Health Association (CPHA), with funding from the PHAC and in consultation with federal, provincial, and non-governmental stakeholders concerned with the policy issue, authored a document entitled, *Leading Together: Canada Takes Action on HIV/AIDS (2005–2010)* (CPHA 2013). The initiative articulated the policy goal of “contributing to the global effort to reduce the spread of HIV/AIDS” (PHAC 2011b). The initiative focused on domestic responses to HIV and solidified the government’s intention of developing a strategy to prevent infection and ensure access to care, both of which were described as critical elements in fighting HIV/AIDS. The Canadian strategy contrasted the narrower vaccine-development focus of the international scientific policy community and the Gates Foundation. At the same time as the international scientific community for HIV/AIDs research was building consensus regarding the need for increased vaccine manufacturing capacity, the Gates Foundation was also developing its scientific strategic plan. All of these are evidence of network building (i.e., the creation of the GHVE, CHVE, and CHVI).

In 2006, the Gates Foundation and the government of Canada formed a partnership, formalized through an MOU, called the Canadian HIV Vaccine Initiative (CHVI) with the

stated purpose of constructing a vaccine manufacturing facility. The project was budgeted at \$139 million, with the Gates Foundation pledging \$28 million and the government of Canada bringing \$85 million in new contributions. The requirement for “new” government investment was a stipulation from the Gates Foundation. The key events, as depicted in Figure 7-3, below, provide a sense of the evolution of the partnership between the Canadian government and the Gates Foundation from 2006 to 2010.

Figure 7-3. HIV/AIDS vaccine developments and the Gates Foundation case study



7.3 Policy Decision

In 2006, no HIV/AIDS vaccine was yet ready for production, but the scientific policy community seemed poised for a breakthrough, and as such, were starting to anticipate what some of the challenges they would face in making a potential vaccine internationally available (Esparza 2000). Between 2004 and 2006, Dr. Richard Klausner, lead author of the *Science* article and Director of Global Health at the Gates Foundation, and Dr. José Esparza of the

WHO HIV Vaccine Initiative¹⁵ led the partnership in its plan for the construction of an affordable and accessible international vaccine-manufacturing facility, bringing together members of the international scientific policy community, key researchers and influencers within the federal government, and prominent scientists and representatives of the Gates Foundation. Key policy entrepreneurs included R.D. Klauser, and H. Gayle of the Gates Foundation; A.S. Fauci, Director of the National Institute of Infectious Disease, and other staff of that organization; S. Berkley with the IAVI; researchers from the University of Washington, Duke University, University of Oxford, University of Natal, and University of Lausanne; as well as representatives from the Vaccine Advocacy Coalition, the Centres for Disease Control and Prevention, VaxGen Inc., the Agence Nationale de Recherches sur le SIDA (ANRS), UNAIDS, and the National Centre for AIDS/STD Prevention.

Despite a change in the Canadian government in January 2006 (from a Liberal minority government under Paul Martin to a Conservative minority government under Stephen Harper), the pursuit of this official partnership continued. In spring/summer 2006, a critical and confidential meeting to discuss the CHVI partnership took place between the Gates Foundation and Canadian ministers (Interview no.1, November 20, 2014). Participants from various stakeholder groups refer to this critical event as “the infamous meeting.” It was followed immediately by the equally infamous “photo op” between Prime Minister Harper and Bill Gates when the partnership was announced at the 2006 International AIDS Summit Hosted in Toronto (Interviews no. 4 & 5, May 1 & 15, 2015). That is, a press conference was held to make the public announcement about the MOU between the Gates Foundation and the Canadian government. Gates and Harper’s announcement was held at a high-profile media event organized during the conference and was greeted with resounding cheers and positive press.

¹⁵ Understanding the phases of research development in the scientific community is an important backdrop for this case study on foundation engagement in public policy. According to Esparza, there are three distinct phases in the history of HIV/AIDS vaccine development. In 1983, HIV was discovered as the cause of AIDS, at which point a majority of the scientific community began focusing on vaccine development. The three phases of vaccine development Esparza describes are aimed at (1) the simulation of neutralizing antibodies (1988–2003); (2) building cell immunity (1995–2007); and (3) uncovering new or combination approaches to HIV and AIDS (2007–present) (Esparza 2013, 1).

At the time of the announcement, the partnership positioned Canada internationally as a model participant in the global fight against HIV and AIDS (CHVI June 29, 2009). This 2006 MOU established the Canadian HIV Vaccine Initiative (CHVI, pronounced “chive”), which was seen as Canada’s contribution to the GHVE (Canada 2006). The CHVI brought together the Canadian International Development Agency (CIDA), Industry Canada, PHAC, the Canadian Institutes of Health Research (CIHR), and Health Canada. The stated objective of the 2006 agreement was to “contribute to the achievement of the GHVI’s Scientific Strategic Plan and to accelerate the development of HIV vaccines” (Canada 2010). The policy agenda was supported by the general momentum and optimism for finding a viable vaccine for HIV/AIDS in the scientific community at the time (Canada 2006). The partners made combined commitments of \$139 million toward the CHVI.¹⁶ The original intent was for the government to allocate funding to approved projects over a period of five years; the timeframe was extended to nine years due to delays in the application process (Goss Gilroy 2010).

7.4 Policy Environment

After the 2006 MOU was signed, initial consultations took place within CHVI’s participating departments, including CIDA, PHAC, CIHR, and Industry Canada. The purpose of the consultations was to establish the official evaluation process for choosing a non-profit organization to build and operate the CHVI pilot-scale vaccine manufacturing facility. Once the facility was up and running, the vaccines produced were to be earmarked for low-to-middle-income countries (LMICs), where the burden of HIV/AIDS was the greatest. The facility was supposed to ensure global access to a vaccine, develop partnerships, situate operating funding, attract in-kind support, and enter into agreements with select HIV vaccine developers (CHVI Jan 28, 2009).

¹⁶ The government’s contribution was \$26 million in existing funding in the priority areas of discovery and research capacity, production capacity, policy and regulation, and community and social dimensions (PHAC funding was re-dedicated to the project). Additional funding totalling \$85 million was also provided (MOU 2006), \$28 million of which was the Gates Foundation’s contribution. In total, \$88 million of CHVI funding was to be directed to the establishment of the pilot scale facility (SCH 2010).

However, also in 2006, the results of the Thai RV144 trials¹⁷ were announced to be unsatisfactory.¹⁸ Preliminary results showed that using the vaccine was not only ineffective, but that it might, in fact, increase the risk of contracting HIV. In addition, in 2007, the Merck STEP¹⁹ vaccine trials failed. The failure of the Thai and STEP trials “came as a surprise to the scientific community who had high expectations” (Esparza 2013, 9). These developments led to a paradigm shift in the international scientific community regarding the approach to HIV vaccine development (Cairns 2009; Esparza 2013, 1), and led researchers back to the drawing board.

In February 2008, navigating between the pharmaceutical industry, the HIV/AIDS scientific community, the international policy community (GHVE), and the Canadian policy community (CHVI), the Gates Foundation brought forward this discouraging information to the CHVI partners (Interview no. 6, May 12, 2015). Later that month, the cancellation of the pilot-scale HIV vaccine development facility was announced, but not without raising significant controversy. The failure of these vaccine trials meant there was no trial-ready HIV vaccine and, as a result, ensuring immediate manufacturing capacity was less urgent. In March 2008, a scientific summit that included the Canadian government and representatives of the CHVI was held in Mexico City. Participants called for a “return to basic science” (Esparza 2013, 10).

Though the status of a potential vaccine was uncertain and the mood in the scientific community was dampened the partners proceeded in accordance with the terms of the MOU. In the spring of 2008, the CHVI secretariat announced its call for letters of intent from qualified NPOs. They received five letters of intent; four were accepted. After primary evaluation, four

¹⁷ “RV144 trial [Thai trials] reported some degree of efficacy in September 2009, the first vaccine efficacy trial ever to do so. However, the result hovered tantalisingly close to the boundary of statistical insignificance, and exactly how the vaccine exerted its effect is still the subject of study. RV144 compared vaccine to placebo in 16,402 adults, starting in 2003 and ending in 2006. It recruited adults aged 18 to 30 in two provinces of Thailand with high HIV prevalence but did not specifically target people at high risk of HIV infection” (Cairns, circa 2009).

¹⁸ In 2009, the Gates Foundation presented new information to the Canadian government about a Thai CT vaccine called RV144. At first, RV144 clinical trials had been found to offer 31% protection among study participants, thereby offering “new hope in the search for an HIV vaccine,” according to the Gates Foundation (CHVI Sept. 28, 2009).

¹⁹ The trials had begun in 2004, when 3,000 participants were recruited to conduct the “proof-of-concept” vaccine study. Participants had been recruited from Canada, the Dominican Republic, Haiti, Jamaica, Peru, Puerto Rico, and the United States, all countries where the particular strain of HIV that the vaccine was intended to effect was prevalent (Esparza 2013, 9).

NPOs were invited to submit applications “consisting of comprehensive business plans to design, build and operate a pilot-scale HIV vaccine manufacturing facility” (Oliver Wyman 2009). These included Trent University, Laval University, University of Western Ontario, and the International Centre for Infectious Diseases in Winnipeg (Elliott 2010). An expert panel conducted an evaluation of each application, as well as in-person meetings with representatives.

7.5 Policy Re-evaluation: Cancellation of the CHVI Pilot-Scale Facility

In March 2009, one year after this major setback and just before the review of applications got underway, the Gates Foundation hired Oliver Wyman, a private management consulting firm with specialized industry knowledge in vaccine manufacturing, to review international global vaccine manufacturing capacity and demand. The goal of the review was to conduct “an analysis of the current vaccine manufacturing capacity in North America and Europe as part of their internal review process” (Canada January 31, 2011). As indicated above, the review was initiated in the context of “several important developments since 2003/04 with regard to HIV vaccine pipeline and platform technologies” (Oliver Wyman 2009), including the policy community’s return to “basic science.”

Over the spring and summer of 2009, the Gates Foundation and the Canadian government considered new developments in HIV/AIDS vaccine research, including the results of the independent reviews each had commissioned. In June 2009, the Gates Foundation shared the preliminary results of the Oliver Wyman report with PHAC. The results of the report were released to all of the CHVI participants, including the offices of the Minister of Industry and the Minister of International Cooperation, in July 2009 (Canada, 2011), five months before the official review process of applications to construct the facility concluded in January 2010.

In August 2009, the PHAC received the preliminary findings of the mid-term evaluation they had commissioned earlier in the year from Goss Gilroy, a consulting firm with expertise in program evaluation (Goss Gilroy 2009). The report marked a turning point in the fate of the CHVI pilot-scale facility. The evaluation found that the CHVE and CHVI continued to be aligned with the original intent of the GHVE, an intent that would enhance Canada’s ability to increase global capacity for HIV vaccine production. However, the report also noted that the external policy environment had changed and that, given the failed trials and the

development of additional capacity in the public and private sectors, there was no longer a supply issue for vaccine manufacturing.

Other challenges noted in the report included implementation progress, collaboration with internal and external stakeholders, governance, and performance measurements. The report also found disproportionate effort placed on the physical facility in comparison to that directed to other objectives of the partnership. In particular, it appeared that the regulatory environment for vaccine trials in Canada was being ignored. The Goss Gilroy report recommended (1) not proceeding with the construction of pilot-scale manufacturing facility (as opposed to the solicitation of letters of interest) and (2) re-examining the “nature and scope” of the initiative and of the partnership with the Gates Foundation (Goss Gilroy 2009).

7.6 Policy Re-Formulation

From April 2008 to January 2010, the government was searching for an NPO to construct and operate the CHVI facility. The CHVI secretariat (whose members were also part of the federal initiative described above) was responsible for oversight of the process to select the builders and operators of the facility, for the partnership with the Gates Foundation, and for the policy agenda.

By December 2008, the selection process for the construction and operation of the CHVI pilot-scale facility was four months behind schedule. At that point, the Gates Foundation noticed that its government partners might be on a path to nowhere, since the failed trials indicated that a viable vaccine may not even be ready. Thus, there was no longer a need to increase manufacturing capacity. The foundation indicated to their government partners that if a successful candidate had not been named by September 2009, the funding would be deferred to 2010 (CHVI June 1, 2009). In December 2009, individuals the CHVI had selected to serve as external reviewers were contacted. (Their names are protected under federal privacy legislation.) Reviews of the applications took place between April 2009 and January 2010.

By December 2009, the official selection process had concluded, the successful applicants had presumably been selected, and announcements had been drafted. On January 22, 2010, the selection announcements based on the four NPO applications were erroneously posted on the PHAC website. The Minister of Health’s office (the Minister of Health at that time was Leona Aglukkaq) shifted to damage-control mode and the notice was quickly pulled,

but not until after it had been read by at least one of the applicants. That same day, “Canada’s Chief Public Health Officer notified the [four invited] applicants” by telephone and told them that they had not been successful (HESA April 4, 2011). On February 19, 2010, the Gates Foundation and the government officially announced that they were not proceeding with the pilot-scale HIV vaccine facility (Canada Jan. 31, 2011). The MOU remained intact, but the policy solution had changed.

Five months after the CHVI pilot-scale facility was cancelled, at the 18th Annual International AIDS Conference in Vienna in July 2010, the Gates Foundation and the government of Canada renewed their partnership for the CHVI, maintaining their commitment to the recommendations of the GHVE’s Scientific Strategic Plan and asserting that “the primary objective of the collaboration is to accelerate the development of a safe and effective HIV vaccine,” thereby expanding the scope of the partnership beyond the construction of the vaccine development facility (GHVE 2005). The secondary objective (the previous policy solution) was to increase global vaccine manufacturing capacity. The tertiary objective, to focus on the prevention of mother-to-child transition of HIV in LMICs, was a priority for the Harper government and was added to the agreement (MOU 2010, 3).

After significant discussion in the House of Commons, “The Standing Committee on Health passed a motion [in March 2011] to conduct a review of the Government of Canada’s decision to cancel the establishment of a pilot-scale HIV Vaccine Manufacturing Facility” (HESA 2011). The review recommended that any future HIV research and capital initiatives should be conducted through the arm’s-length tri-agency granting councils; that independent assessments of HIV initiatives should continue to be part of the regular process; and that a broader policy scope should be considered in future HIV/AIDS programs and partnerships (Parliament of Canada April 14, 2010). This signalled emerging doubts about the policy role of the Gates Foundation for HIV/AIDS vaccine research in Canada, despite the MOU. It is also evidence of the contested legitimacy of the partnership and of the foundation’s role, despite the more open nature of the partnership with the Canadian government facilitated through PHAC.

7.7 Analysis

Opportunities for policy change with respect to the CHVI pilot-scale vaccine manufacturing facility presented themselves between 2004 and 2014. The first MOU included the construction of a CHVI pilot-scale facility, but that was removed in the second MOU. This case sheds light on the strategies employed by this entrepreneurial private philanthropic foundation: scientific philanthropy and organizational collaboration. The focus on the development of a vaccine for HIV/AIDS is an example of a “scientific” approach to philanthropy. Today, the more popular terms are public–private partnership, venture philanthropy, and philanthropreneurship. The strategy is to use donations to leverage other private, third sector, or public investments. It also applies private-sector operating principles to public problems such as specialization. This partnership focused on a narrow area for development: vaccines. Key to the successful partnership (if not the development of a vaccine) was the entrenchment of the relationships between policy participants internationally, between the Gates Foundation (in the US) and the GHVE (in Canada), and within Canada through the CHVI. However, in Canada, the shifting policy agenda, questions of effectiveness horizontally across federal departments, and public and policy scrutiny of the motives of both the political and philanthropic players detracted from the legitimization of partnership.

In 2008/09, the failures of two clinical trials, and the results of the two independent reviews of the CHVI project led to waning agreement in the policy community about the potential for an HIV/AIDS vaccine that would be ready for production, and the need for a manufacturing facility. The failures of the two human trials caused the policy community to re-examine its original forecasts of future demand for vaccine manufacturing that had been identified in the 2003 *Science* article. Still, finding an HIV/AIDS vaccine remained a key policy priority for the Gates Foundation. The foundation sought professional and expert opinions on the demand for the facility and brought that information back to the government in order to inform the next stages of the partnership. On the other hand, in an example of path dependency (Collier and Collier 2002; see Glossary), or of limited communication between different department agencies, the federal government continued to review applications for the construction of the facility (CBC News, April 11, 2011).

By 2010, political issues and changes in the economic climate compounded the challenges facing the pilot scale facility project. As evidenced in the reviews conducted by the

Gates Foundation, the government of Canada, and the Standing Committee on Health, and in the interviews conducted for this research, many speculated that the vaccine failures may not have been the real reason for the cancellation of the facility. It was suggested that the cancellation may have been tied to a political decision on the part of the Conservative government, or a privately interested economic decision on the part of the Gates Foundation (Interview no. 4, May 1, 2015). It was rumoured that the application from the University of Manitoba's International Centre for Vaccines and Infectious Diseases was the preferred candidate for the construction of the pilot scale facility. However, this was misaligned with the Conservative Party's political interests.

Perhaps coincidentally, but certainly fodder for the rumour mill, was the July 2009 announcement of an investment partnership between the Canadian government (\$40 million), GlaxoSmithKline (\$30 million), and the Québec government (\$20 million) for "the expansion and updating of vaccine filling capacity at the [Sainte]-Foy plant" in the federal riding of Louis-Hébert (Canada 2012, 1), a riding in which Harper's Conservative minority government lost a seat in 2008 to the Bloc Québécois. The ministers of health and industry were present for the joint announcement of the funding. Both were also ministers (along with the minister of international cooperation) responsible for the CHVI partnership with the Gates Foundation.²⁰ The Gates Foundation's director of global health at the time was Dr. Tachi Yamada, a former executive at GlaxoSmithKline, owner of the plant at Sainte-Foy since 2005 (Muller 2009). Around the same time, the Gates Foundation was also under scrutiny for appointing the former chairman of research and development at GlaxoSmithKline to the post in 2006 (Gates Foundation 2006; Wilhelm 2010).

In June 2009, the Gates Foundation had warned the government that if the contractor for the construction of the HIV manufacturing facility was not selected by September 2009, funding would be deferred to 2010 (knowing that the government was at least four months behind schedule). On July 16, 2009, the expansion of the federal government's vaccine manufacturing policy interest from HIV/AIDS vaccines to "consideration [of] the potential demand related to other diseases affecting the developing world, such as Ebola" was questioned in the minutes of a joint teleconference meeting between the CHVI Inter-

²⁰ Either way, the NDP won the seat from the Bloc Québécois in the Louis-Hébert riding in 2011.

Department Steering Committee (facility) and the Gates Foundation. The minutes also note that although the scope of the Oliver Wyman report “was limited to an analysis of the supply and demand specifically for HIV vaccines, the nature of the existing supply identified during the review revealed the capacity to address a wide range of potential vaccine products” (Canada 2009a, 1). On July 30, 2009, the minutes of the CHVI steering committee, which includes the ministers (or their delegates) of health, industry, and international cooperation, indicated that they “agreed with the Oliver Wyman report’s findings [that] demonstrate a reduced need for the CHVI facility (due to increased private sector supply of pilot scale manufacturing capacity since 2006)” (Canada 2009a, 1). In July 2009, the ministers of health, industry, economic development, and employment announced an enhanced and increased vaccine manufacturing capacity at Sainte-Foy. Preparation for the announcement of the cancellation of the HIV-specific facility began as early as September 2009. The minutes of the CHVI steering committee note:

Public disclosure of the rationale not to proceed with the facility: the GoC [Government of Canada] suggested that the communication focus on the BMGF [the Bill and Melinda Gates Foundation] assessment that the supply of pilot scale manufacturing now exists, that the GoC is in agreement with this assessment, and that both parties will continue to work together to renew the partnership. (Canada 2009a, 2)

The timing of this Sainte-Foy announcement thus coincided with the announcement of the cancellation of the CHVI pilot scale vaccine manufacturing facility in January 2010. Furthermore, the shift in policy to a maternal health focus was more in line with the social conservative platform of the party. The federal interest in the maternal health policy agenda is evidenced in that the Gates Foundation provided no funding support for this part of the program.

Others suggested it was a financial decision on the part of the Gates Foundation, which at that time was divesting from some of its projects following the recent global economic downturn and associated decreases in investment returns (Interview no.7, May 14, 2014). Based on information arising from first-hand interviews with participants in the case, there were five possible reasons for the cancellation of the CHVI pilot-scale vaccine manufacturing facility (Interviews no. 1-7, 2014-15). Although an interesting and contentious question for

participants, the purpose of this study is not to determine the “real” reason that the facility was cancelled. Rather, it is to understand the policy role of the Gates Foundation. The consideration of the potential rationale for the cancellation of the pilot-scale facility are still relevant, though, as they suggest differing views on the motivations of both the government and the foundation, which according to the secondary research, would have had implications for the perceptions of legitimacy and accountability of both actors:

- 1) The first of the possible reasons is that the decision was a rational outcome of the policy process. Official communications from the partners stated that none of the applicants to construct the facility had been successful in meeting the pre-existing criteria.
- 2) Private actors in the policy community, in particular the pharmaceutical industry, influenced the decision. This is supported by the fact that the Gates Foundation’s external review indicated there was sufficient private-sector vaccine-manufacturing capacity in North America and Europe to meet the international demand, which implied increasing reliance on the private sector rather than the public sector for vaccine manufacturing.
- 3) The cancellation was a political decision by the Conservative government. The politics of procurement and the political leadership in the Canadian HIV/AIDS research policy community were not aligned with the objectives of the governing Conservative party, which had political-electoral objectives in Sainte-Foy. For instance, Terry Duguid, Liberal MP in Winnipeg South, the founding president of the International Centre for Vaccine and Infectious Diseases, led one of the applications to construct the facility. Two factors could have been at play: potentially, the cancellation was a decision on the part of the Conservative government to move toward maternal health as the policy agenda, which was more fitting with their political ideology; or the successful applicant was not the one from the particular riding where the Party needed to capture more votes (Interview no.4, May 1, 2015).
- 4) The cancellation might have just been a mutual decision based on the importance of innovation in finding an HIV vaccine, and the appropriate policy direction. The policy solution changed and the support from the international scientific community waned.
- 5) A final consideration is that cancellation was an economic decision on the part of the Gates Foundation. Endowments for all North American foundations “took a hit”

following the economic crash of 2008, including the Gates Foundation (Interview no.9, Sept. 3, 2015), which at that time was divesting from some of its projects (Interview no.7, May 14, 2014).

I had originally anticipated that the policy role of the Gates Foundation in this case must have been a result of the particularities of the Canadian institutional context or politics. The research, and especially the interviews, revealed five other possibilities to explain why the CHVI vaccine development pilot-scale facility project was cancelled. What I actually found was that there were a few highly influential policy entrepreneurs in the third sector who leveraged the expertise of the scientific community and the weight of the Gates Foundation in order to move their agendas forward. The Gates Foundation and influential actors representing it also acted as policy entrepreneurs to access the government agenda. In this case, however, the policy network, including the foundation, the policy entrepreneurs, and private sector's approach to innovation for the public good was moving more quickly than the science. This presented both a challenge and an opportunity for the foundation's potential contributions to policy solutions.

As noted, Canada's Chief Public Health Officer announced the cancellation of the CHVI pilot-scale facility in January 2010. Critics referred to the timing of reports from external consultants (which were commissioned while the official application process was still underway) when discussing the cancelling of the facility, suggesting that ultimately the cancellation was a bilateral decision by both the Gates Foundation and the government of Canada (Interview no. 7, May 14, 2014; Interview 2, November 20, 2014). The evidence indicates the role of the Gates Foundation in this decision was more than just advisory. In contrast to the policy roles and engagement of foundations in the decision processes for the capital gains tax exemption and Crown foundations, the Gates Foundation was a decision-making partner in the cancellation of the CHVI pilot-scale vaccine manufacturing facility (Interview no. 2, November 11, 2014).

7.8 Discussion

While governments may not be the locus of innovative policy solutions, partnership with foundations can generate better policy solutions, and more expedient, timely decision-making (Rich 2004). Government partnership with foundations may bring new ideas to the table and

make government more efficient and innovative than it would be on its own. In the Gates Foundation case, the foundation brought forward developments in the policy community in a timely way, and then prevented them from going forward when it was no longer in their own economic interests or the government's political interest (the motives, as discussed, are debatable). It is difficult to assess whether the Government of Canada would have spent scarce public and private resources on such a narrow policy focus without the involvement of the Gates Foundation or an ostensibly simple solution to such a complex international public health issue as an HIV/AIDS vaccine that was not yet ready for production. Even so, the partnership between the government and the Gates Foundation continued to 2014.²¹

Working off of the strength of its pre-existing partnerships with the scientific community for HIV/AIDS research, the Gates Foundation brought forward the policy solution of a vaccine and mobilized international government insider contacts for the signing of the MOU. This role is typical of a policy entrepreneur according to Kingdon's definition (1995). By bringing forward developments in the policy community in a timely way, the foundation brought an innovative policy solution to the government agenda, to which the government agreed (likely given the financial incentive and positive reputational implications).

This case study on the Gates Foundation-led CHVI initiative was a unique partnership with the Canadian government. It is one of the highest-profile private foundation donations and formal partnerships in recent history. The last US philanthropic-public partnerships in Canada that received as much attention were the Rockefeller Foundation and Carnegie contributions to the arts and letters from 1910 to 1951 (Brison 2005), to which several parallels can be drawn.

From the outset, the Gates Foundation was highly influential in this policy process. Like Carnegie and Rockefeller, it has the resources and connections to influence policy development across the globe and in Canada (as noted in Chapter 2). The Gates Foundation has formal partnerships and funding arrangements with many IGOs and NGOs, and it contributes more financially more than the WHO's annual budget in a given year. It is also a highly complex organization. As of 2016, the Gates Foundation has about 1,400 employees and \$40.3 billion in assets, and has awarded grants of \$4.6 billion. In addition to playing a major role in

²¹ The CHVI MOU was under renegotiation in 2015, and at the time of the writing of this chapter had not been renewed. A final report was completed in October 2016 (Canada 2016).

the US, the foundation also supports grantees in over 100 other countries. It has offices in Seattle, Delhi, Beijing, London, and three in Africa. The Gates Foundation's strategy has had a coherent emphasis on global health (especially vaccines) and education in the US for many years (Gates Foundation 2017).

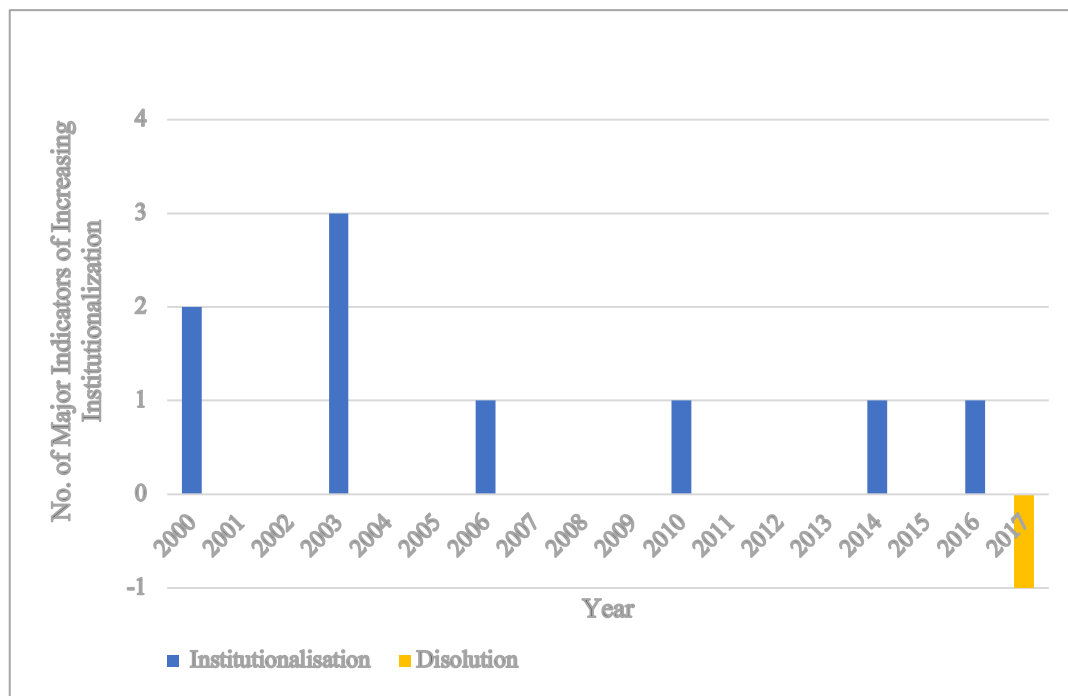
Just as the industrial-age Rockefeller Foundation and Carnegie Corporation were established with the endowments from their benefactors, the Gates Foundation was established by a wealthy Silicon Valley benefactor in 2000. The legitimacy of all three of these foundation's contributions to the public good in Canada have been contested. The challenge to their place in Canadian public policy is rooted in questions about their motivations, the (hegemonic or imperialist) scale of their impact, and their undemocratic processes and structures. For their contributions to society, they have been viewed as elite, although sometimes reputable, organizations. While their high-flying connections attract attention, they also highlight conflicts of interest. For instance, both former heads of the Gates Foundation's Global Health Program, Klausner and Yamada, went on to pursue venture capitalist opportunities following their tenures at the Gates Foundation (2002–2005 and 2006–2011, respectively) (Wilhelm, 2010). Both came under scrutiny for their connections with the pharmaceutical industry prior to and during their terms at the Gates Foundation.

The focus of the Gates Foundation on HIV/AIDS vaccine development is an example of the influence of the “venture philanthropy” strategy for giving (Bishop and Green 2010; Fleishman 2007; Pallotta 2008; Lagemann 1992, 1999; Arnove 1980, 2007). This is akin to the Rockefeller and Carnegie's “scientific” approaches to philanthropy. Some private sector philanthropic enthusiasts suggest that applying market principles to public problems will make the third sector more successful. However, the application of market principles assumes we are operating in a situation of market failure, as opposed to government failure or voluntary failure. In addition, a good deal of research (Olstrom 1990; Olson 1970) highlights the issues of applying rational choice theory, even theories of bounded rationality, to problems of collective choice/goods. In philanthropy and foundation circles, the trendy new terms are now “venture philanthropy” and “philanthrocapitalism” (Bishop and Green 2008). It appears to have had limited impact on the fight against HIV/AIDS in terms of both time and private and public money invested. That said, the Gates Foundation's approach was backed by the scientific policy community as represented in the GHVE.

In hindsight, perhaps the government of Canada and its private philanthropic partner, the Gates Foundation, should have waited until a successful vaccine had actually been developed before jumping in. If not for the involvement of the Gates Foundation, the government might not have allocated public resources to HIV/AIDS vaccine development. However, “An investment of \$139M (federal government – \$111M from existing resources; the Gates Foundation – \$28M) was made to support CHVI activities since 2007, a small investment considering that, in 2009, the total costs of HIV in Canada (loss of quality of life, health care costs, and productivity loss) was estimated at just over \$4 billion” (Canada 2016, 2). So perhaps in the grand scheme of things, it was worth the risk. On the other hand, there are domestic policy problems for HIV/AIDS in Canada, where these tax dollars might have been put to use. For instance, there was no mention of Indigenous peoples as a specific target population in either of the MOUs or the final report of the initiative, whereas the Indigenous population in Canada now has HIV infection rates comparable to those in the developing world (Canada 2014; CATIE 2014; Bellegarde 2016).

Figure 7-4 below plots the major milestones for the development of the early GHVI developments from 2000 to 2003, which led to the CHVI partnership between the government of Canada and the Gates Foundation from 2006 to 2014. The number of instances by year is indicated in the blue stacked bars. Federal elections are marked with red lines. Between 1997 and 2006, the Liberals were in office; then from 2006 to 2015, the Conservative party was in office; in 2015, the Liberals were elected. Prior to 2006, these trends took place primarily in the international policy community. Around the time of the 2006 election, policy changes in Canada started to track closely with elections. Although less significant, and despite the setbacks, in 2010 the MOU was renewed but with a very different mandate just before the 2011 election.

Figure 7-4. Federal elections and the development of the CHVI partnerships (2000–2017)



In this case, the innovative ideas developed in the policy community, brought forward by the Gates Foundation, were adopted as public policy solutions by government. From a public policy perspective, this is a key development for understanding the roles of major foundations in generating ideas that inform public policy. Whereas government may not be the generator of innovative policy solutions, partnership with the third sector (and perhaps also with the private sector) can perhaps generate better policy solutions and more expedient decision-making (Rich 2004). Government partnership with private organizations may bring new ideas to the table and make government more efficient and innovative than it would be on its own.

7.9 Summary

The case laid out a unique example of a foundation (currently the largest in the world) in a partnership with the Government of Canada. Health-research policy appeared to be a more open policy network than fiscal policy as discussed in Chapters 5 and 6. It appeared that government, academics, and foundation actors were all influencing the policy agenda in meaningful ways. The policy entrepreneurs facilitated the formation of a Canadian iteration of

an international policy network in the GHVI. In partnership with the Canadian government, the Gates Foundation established the CHVI. This is evidence of network building, in that informal, personal, and professional networks of the Gates Foundation were essentially reconstituted as a Canadian version of an IGO for the same policy issue.

In terms of its significance for third-sector studies, the case reveals an important opportunity for and the potential impact (currently underestimated and possibly undervalued given the extent of negative attention regarding the policy roles of private foundations in Canada) of private philanthropic foundations' engagement in public policy making in Canada. In 2010, after the failure of the vaccine trials (obviously precipitated by external events beyond the foundation's control), the MOU was renewed, but with a focus on maternal health and HIV/AIDS. This policy approach was more palatable to the Conservative party and is more appealing to a socially conservative voter base in a minority government.

Similarly, to the cases presented in Chapters 5 and 6, and when considering both the political and economic interests of the partners, the shift in policy direction around election cycles resulted in the waning influence of the foundation at implementation. The policy change from a capital project to a focus on basic research, project management, and improved collaboration would prove more challenging in terms of demonstrating the impact of this partnership in a transparent and meaningful way to the public.

8 CONCLUSION

The overarching purpose of this study was to bring better understanding of the roles of foundations in Canadian public policy, but beyond just handing out grants to non-profit organizations. Three cases were selected where there was evidence that foundations were engaged in federal or provincial government policy processes. The theoretical framework for this research was rooted in the policy-cycles framework and the concept of policy entrepreneurs borrowed from Kingdon (1995), which was applied across the whole policy cycle. There are striking similarities between the foundations' roles in policy entrepreneurship and approaches to influencing public policy across these cases. In spite of differences in organizational size, policy domain, organizational type, or timeframe, each case revealed similar strategies aimed at increasing the perceived legitimacy of foundations as policy actors in Canada, both with the federal and provincial governments.

Based on the literature review I conducted and the conceptual framework I developed, I anticipated that foundations could be described using Kingdon's (1995) concept of policy entrepreneurs, and that it would help to elucidate these foundations' relative influence. Pairing this concept with the policy-cycles framework, rather than limiting the analysis to the agenda-setting stage as per Kingdon's original multiple streams framework, allowed for a more comprehensive and systematic analysis of how foundations affected government decisions at different stages of the policy process.

As anticipated, foundations, in their roles as policy entrepreneurs, were effective at accessing government agendas. In fact, based solely on the comparative literature across the different policy domains, and considering their varying organizational types, these foundations employed more similar strategies than might have been expected. Consistent with the theoretical and comparative research, the third sector and the public sector both shaped and constrained the institutional contexts within which foundations operated in these cases. One interview participant commented on the particularities of the Canadian institutional framework for foundations:

First of all, the constitutional framework in which we're operating is different than that in the United States. The government can't legislate anything that's not reasonably connected to the imposition of an income tax. Now that arguably means some of the things on the books now are unconstitutional, but

hopefully they keep that in mind (or they did in the past when they drafted some of these rules). So, whereas you might see in another context the foundations lobbying to say “look, we need to be able to engage in political activities,” as an example, my personal belief and those of others is that the federal government has no power to legislate on a charity’s involvement in political activities. (Interview no. 20, June 6, 2015)

The Canadian approach to philanthropy is different in its ethos from that of the US. Under the Carter Commission, the commitment to the statist vision of ensuring the welfare of Canadians was reaffirmed. This is in stark contrast to the American approach to philanthropy, which focuses on the limited role of the state, the value-add of pluralism, scientific philanthropy, strategic philanthropy, philanthrocapitalism, and the latest trend – venture philanthropy. What was unanticipated in these three cases was that their institutional environments were also shaped by the participating foundations.

Based on the empirical research on policy making in Canada, it also was reasonable to expect that the nature of the Canadian democratic system might give rise to coalition building in the foundation sector in order to access the highly centralized decision processes, in particular, the closed policy regimes where the Ministry of Finance was concerned (Aucoin 2006; Philipps, L. date; Philips, J. 2000; Philips S.D., 2009; Elson, 2010b). A noteworthy finding was the extent of coalition-building strategy and how consistently it was employed by these foundations and across policy domains.

An analysis of these insights and the outstanding issues are presented and considered in this chapter. The chapter is organized into the following sections: a discussion of my findings on foundations for each of the research questions; an analysis of my observations through the conceptual framework of entrepreneurship and the activity of foundations across the policy cycle; policy recommendations; and a summary of the research limitations and potential areas for future research.

8.1 Discussion

The research questions presented in Chapter 1 guided the examination of the strategies of these policy actors, their influence, and their effectiveness vis-à-vis government and their stated policy objectives in relation to these cases. I was interested in the makeup of Canadian

foundations; why they were engaged in these policy processes; which resources and strategies they employed in these cases; how receptive governments were to their influence on policy making; and what factors enabled or hampered their success.

8.2 *Who are Canadian foundations?*

As discussed in the literature review in Chapter 2, Canadian foundations are either public or private foundations, and are registered charities under the *Income Tax Act*. There are various and diverse organizational forms of foundations: Crown, parallel, public, private, corporate, family, and Indigenous foundations. As one foundation executive was careful to point out, “The first thing to remember is when you’ve met one foundation you’ve met one foundation. There is no consistency across foundations either in terms of their interest or in terms of their methods of operation” (Interview no. 15, April 23, 2015). The unique organizational forms of foundations in Canada include the university and hospital Crown foundations (compared to the more common parallel foundation), Indigenous foundations, and federal Crown foundations such as the Millennium Scholarship Foundation (Aucoin 2006). While not covered in detail, the latter two are noteworthy areas for future research, especially considering that federal Crown foundations have come under considerable scrutiny.

When they have been involved in policy making in Canada, both historically and currently, foundations have occupied contentious and contested roles in Canada as they have in other western developed nations (Prewitt 2006). Comparative studies of foundations note that “moral legitimacy is often interlinked with political legitimacy” (Anheier and Daly 2006, 61; note this study excludes Canada). This was affirmed in my research. The sentiment was evident in the comments of those interviewed. For example, one participant stated:

A lot of the people who are the wealthiest people in the world are wealthy not because they’re awesome people, but perhaps they’re wealthy because they are not such awesome people. I guess that’s the cynical part of it but the positive part of it is that there are also huge numbers of people in the world who are really absolutely devoted their lives and their efforts to make massive differences with people, and you meet those people as well and those are the people that inspire you to the end, amazingly creative people who work. (2015 interview anonymous statement)

This tension presents a challenge for foundations in their roles as policy actors, as perceptions can be reality for some. This is important because foundations are spending more of their time on professionalization, communication, and networking. They report on inputs in order to grapple with perceptions of limited democratic legitimacy, and lack of transparency and accountability. Meanwhile, it is difficult to assess the outcomes of their policy engagement efforts.

As this dissertation has shown, foundations are both policy entrepreneurs and political organizations. They wield influence and power, are well connected in policy communities, and have resources (money, time, and energy). As one interviewee noted, “foundations have a lot of power and they can do a lot of things” (Interview no. 9, September 3, 2015). However, it does not follow that foundations are, or could even strive to be, apolitical. It would not be possible for foundations to contribute to the social good, either as operating foundations, grant-makers, or innovators, if the expectation was that there would not be any political implications or objectives related to their efforts. Moreover, one of their deliberate strategies is to leverage their investments with government. Another interviewee noted:

We are really small as compared to government and what governments can do, but we are trying to play a catalytic role in partnerships and bringing spotlights to their end, areas that are neglected or underfunded, or not seen as high priority, where it should be. And that is really where it works.

(Anonymous interview, 2015)

Efforts at improving the social good are inevitably political efforts. They presume that current structures create disparities in social outcomes and positions. The act of foundations investing money into social causes (at their discretion) is also inherently political, and is the source of some of their legitimacy and accountability challenges, as discussed in Chapters 2 and 3. Yet, governments are also responsible for setting the parameters within which third-sector organizations like foundations work.

8.3 Why did these foundations engage in policy processes?

It appeared from the research, including the interviews, that foundations’ engagement in these cases was motivated by their desire to contribute to the social good. For instance, one foundation executive commented that:

“It’s a play of continuous leveraging to scale up our program and momentum, but also bring people under the umbrella for they all feel like they are working together on something that’s really large and meaningful. It’s more than just through the resources and the money, it gives people a sense of purpose or a feeling that they are part of this movement, this momentum.” (Interview no. 27, August 30, 2016)

However, that is not to say that this was reflective of the outside perception of their motives. In each of the cases, interviewees point to other possible motivations, as follows:

- With respect to the Gates Foundation: “You have to remember the genesis of the foundation. The Gates Foundation was created at a time when Microsoft was [under legal scrutiny]. The foundation was created really as a communication network to change public opinion of the Gates [family] and Microsoft” (anonymous interview, 2015).
- Regarding the Crown foundations case, a tax advisor noted, “If you give to this agency it qualifies for 100% claim limit or contribution limit. So, you can claim much more of your gift and *shelter* much more of your taxes. In ’96, what happened was the government said “Hmm, this is getting kind of out of hand” (Interview no. 16, Nov. 14, 2017)? The Department of Finance and the Charities Directorate of the CRA are highly suspicious of tax “shelters”. Any that have been investigated have had the donation receipts rescinded (Canada 2017).
- Regarding the capital gains tax: “Essentially, in the United States, for decades, its gifts of appreciated capital property are exempt from capital gains taxes and appreciated capital property includes three main assets, one is listed securities listed in the stock exchange, another is private company shares and the third one is real estate, commercial real estate... And so all three are exempt in the United States but in Canada it’s just gifts of listed securities that are exempt and the reason it’s restricted to listed securities is because as it concerned about valuation abuse with gifts of private company shares real estate.” (Interview no. 25, March 6, 2015)

In each of these cases, there two motivations of the foundations could reasonably be drawn. The first would be altruistic. The second, which entails jumping to a conclusion (albeit one

based on historical experience), is that foundations were motivated to change the regulatory environment for themselves for personal or corporate gain. Therefore, these policy efforts of foundations directed at changing the tax incentives for giving, and those particular to foundations, might have actually reinforced the widely discussed (if not widely held) perception that foundations are simply tax shelters for the rich (in other words, vehicles for tax fraud) (McQuaig 1987).

8.4 Foundation strategies

Policy entrepreneurship was evident in foundations' efforts in all of the cases considered in this dissertation. More than just funders of NPOs or operating foundations, the foundation sector contributed in real and meaningful ways to the policy processes for these cases. For the most part, foundations used standard lobbying techniques to bring their policy ideas to the fore. There was interesting similarity between their approaches to policy engagement in spite of differences in organizational size, policy domain, resources available, or level of government. In addition, though, each case study presented in this dissertation pointed to growth of different kinds of organizations in the foundation sector over about a 30-year period from 1983 to 2017.

While this strategy was successful for gaining access to policy agendas, it was less so for policy implementation, evaluation, and reformulation. The efforts of policy reformulation were protracted by 10 years; the provincial university Crown foundation agenda was essentially quashed by the federal government shortly after implementation across nine provinces; and, it is not clear what the policy outcomes of the Gates Foundation partnership with the federal government for the CHVI were, other than resulting in some published research and improving collaboration between stakeholders and governments, costing over \$100 million over about 10 years.

Examples of different forms of organizational developments came up in offhand comments in the interviews. For example, in an unrelated interview about the PSE sector and the Crown foundations initiatives, the individual noted in regard to the capital gains tax exemption: "The association [the CAGP] started in 1992/93. The first conference was in 1994, [but] the publicly listed securities initiative, all of that led to a tremendous influx of activity and dollars generated within the sector and across the country" (Interview no. 41, April 17, 2017). These strategies were common knowledge amongst the policy participants but unbeknownst to

me as a researcher. The policy participant was referring to the case presented in Chapter 6, but did not have any direct connection to it, only knowledge of the changes that it provoked. As such, the capital gains tax exemption case (Chapter 5) and the Crowns case (Chapter 6) provide evidence of the types of policy engagement strategies used by policy entrepreneurs in the third sector in Canada. While I knew about the existence of the PFC and the CAGP, there had been no previous public documentation regarding the inceptions of these organizations being connected directly to the pursuit of those policies.

8.5 *How Receptive are Governments?*

Foundations are not representative of a citizenry or electorate (that doesn't mean that the boards of foundations don't vote on decisions, though). An interviewee stated:

The government has a tremendous amount of control over the types of charities that exist, their capacity to organize funds and their capacity to do work. So...while the government has definitely been influenced by the foundations, charity on the other hand can be negatively influenced by government's use of their power to act with charity. (Anonymous interview, 2015)

Thus, there is an inherent tension both the public discourse and in the literature about the appropriate roles of foundations in public policy. Roelofs (2003) suggests that, despite the progressive role of foundations, they are perceived to "have a depoliticizing effect, one that preserves the hegemony of neoliberal institutions" (quoted in Fazekas 2004). Lagemann (1999) similarly suggests that foundations are instruments for governments to achieve their political objectives.

Furthermore, there was evidence of conflicting policy preferences at the federal and provincial levels of governments, which either undercut or supported the foundations' efforts, depending on the case – a key insight regarding the place of federal and inter-provincial relations for foundations' participation in policy processes. That said, the federal policy directions prevailed at implementation or reformulation in every case due to the power of the purse in the *Income Tax Act* and the reinforcement (not necessarily authority) of that responsibility exercised through the CRA. One policy entrepreneur shared a key lesson for engaging with government on policy:

I've learned in the process that it's essential to get the support of all members of Parliament. The minister of finance and the prime minister ultimately make the decision, and only do so if they really have the support of the caucus. To get the support of members of Parliament – members of Parliament listen to people in their constituency. (Interview no. 25, March 3, 2015)

This strategy also enabled policy efforts to survive changes in government in many instances (although not recently in the case of the proposal for the extension of the capital gains tax incentive to the donation of private capital). In addition, ministers listen to their staff when it comes to the appropriate level of engagement or consultation with outside stakeholders on any given issue, so policy entrepreneurs also learned to navigate the inner workings of provincial and federal governments, building relationships with the public service.

The Ministry of Finance and the CRA are key players in these cases, and acted primarily in the role of gatekeepers to foundations' involvement in public policy processes in Canada. Following the regulatory reforms in the late 1990s, the agencies' roles were strengthened. A federal public employee explained, "When we did the charities regulatory reform, of course, the policy function for all of this really sits with the Department of Finance. The CRA is their administrative arm, but there's a lot of small 'p' policy that happens in that space" (Interview no. 22, May 14, 2015). The CRA's main role was to bring the appropriate levels of revenue into the federal coffers in order to resource the government's priorities, and to patrol for abuses. This is inconsistent with a mandate to provide tax incentives in order to increase philanthropic donations for the benefit of the public. Moreover, these indirect expenses delegate policy power either to the provinces, e.g. through the university Crown foundations, or even to the donors. Therefore, there is a heightened emphasis on not losing control of these policies through excessive tax expenses. Such an approach is consistent with the values enshrined in the Carter Commission, in that the public and social good are the responsibility of government. The receptivity of the other ministries like health and innovation was one of collaboration and partnership. This treatment is not unique to foundations (Aucoin 2006; Phillips 2009).

8.6 What are the Barriers and Enablers?

Coherence, connections, and persistence were key for foundations' engagement in Canadian public policy. Foundations increasingly built policy networks to push their agendas forward, built umbrella organizations, and persisted until governments adopted their specific policy preferences. However, it appeared as though the very strategies that made foundations successful in accessing government agendas for these purposes brought only negligible value at the implementation stages, and inadvertently prompted enhancement of oversights and regulations for foundations.

The CRA has parallel policy mandates: it is responsible for the regulation and oversight of foundations, as well as for developing the incentive structures for charitable giving in the *Income Tax Act*. In the first two case studies presented, foundations' strategies were aimed at very specific policies in the *Income Tax Act* that would enhance their fundraising capacity. Foundations' narrow policy focus on sections of *Income Tax Act* seemed to undermine their ability to see the bigger picture. While it accepted specific policy proposals from foundations, the CRA also increased reporting requirements and other restrictions on foundations, without foundations' meaningful engagement in those policy discussions at the agenda-setting stage.

In her study of foundations, Lagemann postulates that the professionalization of foundations has actually decreased their effectiveness. They are increasingly bureaucratized amidst pressures to demonstrate their legitimacy, and improve their transparency and accountability to the public and to government. It takes too much time and effort to simply establish their legitimacy. In each case considered herein, there was considerable focus on building up new organization in order to assert foundations' legitimacy in the policy domains. In the Gates case in particular, there was significant investment in the professional communications planning. For example, there was a media release, a speech, and a photo op at the annual HIV/AIDS conference in Toronto during the month that Canada was hosting the G8 summit. But these media efforts tend to focus on inputs rather than outcomes. They touted the fact that the investment from the Canadian government was \$111 million, and \$28 million from the Gates Foundation, for a total of \$139 million. This is only a minor investment in light of the fact that in 2014, according to the WHO, 37 million people were living with HIV, and 26 million of those people living in sub-Saharan Africa. The final report, however, was quietly posted on the PHAC website.

In each of these cases, laser focus on a single policy solution diverted the attention of these tightknit policy networks away from the macro level changes taking place nationally, even internationally. In the tax case, the whole regulatory regime for foundations was overhauled whilst they were lobbying for private foundations to be included as qualified recipients. In the PSE case, while university and provincial government policy entrepreneurs were pursuing the establishment of Crown foundations for provincial universities, the federal government changed the rules. In the Gates Foundation case, while the partners were focused on constructing a vaccine-manufacturing facility, promising scientific developments took a few steps backward.

8.7 Analysis: Policy Cycles and Entrepreneurs

Even before I undertook this research on foundations, it was almost self-evident that they could be described as policy entrepreneurs. Therefore, I had originally planned to focus on policy agendas as an appropriate framework for the study of foundations' policy roles in Canada. However, upon commencing document review and some preliminary interviews, it became clear that foundations were involved throughout the policy cycle, although to varying degrees. Reassessing my research observations in accordance with the policy-cycles framework, and focusing on the concept of policy entrepreneurs proved a more effective analytical approach for describing my research findings. These constructs, therefore, formed (and re-formed and re-drafted) on the basis of the theoretical and conceptual frameworks presented in Chapter 3. The main finding of this research is that Howlett's (1997) insight into the regularity of policy opportunities (or windows, according to Kingdon) in Canada holds true for foundations' engagement in these policy processes. Annual budget cycles and federal and provincial elections provided either impetus or roadblocks to foundations' pursuits of their preferred policy agendas. This is an important insight for policy makers as well as foundation staffs, board members and executives looking to engage meaningfully in Canadian public policy.

The current literature on policy entrepreneurship and the comparative literature on foundations led me to have high expectations of the extent of foundations' policy engagement in each of these case studies. Given what I knew going into this project, and the variations amongst and between foundations cross-nationally, I anticipated finding significant differences across policy domains based on the characteristics and strategies of the foundations. I expected

that, together, these factors would determine foundations' effectiveness in the policy processes I examined. Moreover, I expected to affirm that they wielded significant public-policy influence as elite policy entrepreneurs. Based on popular discourse about foundations, I thought that foundations would have a highly influential role in the policy processes for these case studies.

Overall, I found that foundations struggled somewhat to see their policy ideas shape policy implementation and evaluation. This was consistent across all three cases. Elson (2003) suggests, in reference Mazmanian and Sabatier (1983), that there are seven structural variables that influence policy implementation:

- 1) Clear and consistent objectives; 2) Incorporation of adequate causal theory; 3) Hierarchical integration within and among implementing institutions; 4) Decision rules of implementing agencies; 5) Recruitment of implementing agencies; 6) Formal access by outsiders; and 7) The initial allocation of financial resources. (Elson 2006, 5)

Policy entrepreneurs were skilled at getting the attention of policy makers at the early stages of the policy cycle for their specific policy objectives. This should be expected given their emphasis on professional communications in order to convey their commitment to transparency and accountability, thereby enhancing their perceived legitimacy as policy participants. In addition, foundations' strategies for influencing policy processes, as in their approaches to giving, were all informed by scientific approaches to philanthropy. (Today, the trendier terms are "venture philanthropy" and "philanthrocapitalism.") This resulted in narrow policy foci across each of the cases, with disadvantageous consequences for the foundation sector.

Moreover, across all of the cases, in the process of pursuing their policy ideas, policy entrepreneurs deliberately, by necessity, or fortuitously built policy networks in the third sector. Hill describes as a process by which, over time, "The organization creates authority relationships vis-à-vis the environmental actors" (2006, 3). Organizing into new structures proved an effective strategy for building coherence and accessing agendas. It was an effective way for policy entrepreneurs to increase their influence, but not far beyond the agenda-setting stage.

8.8 *Foundations in Canada*

As noted in the conceptual framework presented in Chapter 3, and having established that foundations are political organizations, although not public organizations, it is appropriate to assess the influence of the foundation sector in the cases presented herein. Better coordination among these organizations improves their reputation. It provides stability, longevity, and continuity, as well as flexibility. Given the persistent legitimacy challenges facing foundations in Canada, it would be wise to note the following observations from these cases.

Internal factors of increasing institutionalization are coherence and complexity. In all of the cases, congruency around the problem definition and proposed solutions led to improved organizational coherence amongst foundations, between them, and with their partners. This agreement on policy direction provided a jumping off point for developing more formal structures, processes, and solutions. In turn, common messaging around policies provided legitimacy for foundations' access to the government processes. By way of illustration, one interviewee advised: "Our board has been involved in policy level stuff for a very long time but our philosophy is we don't speak out on every issue imaginable. We like to keep our powder dry so that when we do speak out publically, ... it's not just seen as on the latest topic of the day" (Interview no. 13, April 23, 2015). The establishment of PFC, the CHVI MOU, and the CAGP provided platforms and procedures (through governance structures, e.g. staff, boards, board committees, and formal agreements) by which to navigate different policy positions among members and/or partners in order come to common agreement. Moreover, these common policy objectives provided a rallying point for members.

Formal incorporations of organizations in these cases included, for example, the PFC, which evolved from representing only private foundations to all foundations; the CASE chapter in western Canada; the ICID in Winnipeg; and the CHVI Secretariat housed at the PHAC in Ottawa. The umbrella organizational structure for foundations and registered charities in Canada is becoming increasingly complex. Throughout these cases there are examples of the emergence and proliferation of new conferences held by experts, researchers, lawyers, professionals, accountants, academics, fundraisers, civil servants, politicians, and foundation executives. The diversity of participation, and the complexity of the professional associations mean that the infrastructure for the foundation sector is becoming coordinated in Canada. In addition, partnerships like the VSI between government and the third sector and joint

roundtables, as well as the Voluntary Sector Accord (even if only in name, for now), provide further steps toward the legitimization for foundations and the third sector in Canada.

Foundations must also be able to adjust their policy objectives in order to stay relevant in a changing environment, and they are guided by the visions of their funders. However, foundations are enduring organizations. Working together has arguably improved their ability to access policy agendas in order to move their ideas forward. Yet, the umbrella organizations that improved their reputations and relationships with one another as well as with governments are only a few decades old. They have not yet gone through some generational changes like turnovers in board membership, expansions of membership, and broadening of policy objectives (e.g., just tax incentives or regulation of the foundation sector overall). Still, the increasing sophistication of the sector is also evident in the many publications, including conference presentations, articles, and books that have been published by professionals and experts in Canada (Minton and Somers 2016; Bromley 1997; Pearson 2010; Burrows 2009; Aptowitzer 2015).

As illustrated in each of these case studies, the focus on improving incentives for giving in the *Income Tax Act* came at a cost. While the capital gains tax exemption was extended to private foundations, much more stringent regulations and restrictions on the operations of foundations and the charitable sector overall were under development and enacted. While the provinces were focused on supporting the PSE sector through the establishment of provincial university Crown foundations, the federal government revoked the unique tax advantage and established their own PSE Crown foundations. While the federal government was busy reviewing applications for a proponent to construct a pilot scale vaccine manufacturing facility, the science, economy, and demand all shifted. The partnership lasted eight years, costing over \$100 million in public and philanthropic dollars, with little to show for it than some improved partnerships and collaborations, article publications, and fanfare.

The similarities across these three case studies is striking when considering all of the significant differences between the policy domains, political involvement, and organizational variations between them. It appears as though in spite of the emphasis in the literature on different types of foundations (whether an organization is a Crown, parallel, public, or private foundation, or if it is an umbrella organization), all foundations have a lot in common when it comes to their impact on Canadian public policy. At least for these cases, and at least in terms

of policy making in Canada, a foundation, no matter what kind it is, is still a foundation. This contrasts with one interviewee's comment: "When you've met one foundation, you've met one foundation" (Interview no. 13, April 23, 2015). There were many more similarities in their policy engagement than anticipated.

These cases demonstrated increasing coordination among foundations and other policy actors, and coalescing policy aims. Policy communities evolved into policy networks, and then into formal incorporated organizational structures. The policy entrepreneurs in Chapter 5 built an umbrella organization to enable foundations to bring the interests of private grant-making foundations to the forefront of the government's agenda more effectively. Again, in Chapter 6, Public Crown foundations were established for universities motivated by the aim of philanthropy professionals creating more and better opportunities for donors interested in making investments in PSE. As well, in Chapter 7, policy actors working within the Gates Foundation with the Canadian government planned to move vaccine development capacity forward, in accordance with the direction of the scientific policy community. Their professional networks evolved into the Canadian iteration of the GHVE, i.e., CHVI. Canada's Ministry of Finance and the CRA responded by re-examining and re-balancing the regulations, rules of operation, and oversight for foundations.

8.9 Policy Recommendations

This dissertation finds that, overall, public perceptions of foundations tend to drive the policy foci of the Canadian federal government in considering the "appropriate" roles of foundations, both in the legislation that regulates foundations and in "partnerships" with foundations. Whether the *Income Tax Act* is the appropriate policy instrument for overseeing the role of foundations in Canada is a policy matter that warrants ongoing consideration, as the Carter Commission, the Broadbent Report, and the VSI Report recommended, as well as countless other Canadian authors concerned with the oversight of the charitable sector writ large.

Foundations are important to policy processes in Canada. However, a more nuanced understanding of their current and potential policy roles is needed. Foundations add the following to the policy environment in the cases considered in this dissertation:

- 1) They provided avenues for entrepreneurial approaches to policy development for fiscal policy, PSE policy, and health-research policy;

- 2) They contributed to the development of the foundation sector, but more broadly to the third sector as well, thereby enhancing their legitimacy;
- 3) Their close connections to policy elite, government officials, and expert (international) networks, and their weighty reputations added credibility to innovative policy;
- 4) They provided critical, alternative perspectives to majoritarian concerns, which is an appropriate pluralist role.

Limitations and challenges to foundations' effectiveness in improving policy directions and outcomes are as follows:

- 5) Their policy foci of individual funders are too narrow, regardless of the policy domain;
- 6) The development of the sector is still in early stages. Regeneration and turnover of policy actors and key foundation representatives will be critical to their legitimacy;
- 7) If they are to be effective policy actors, and their objectives align with government public policies, more effort is needed to ensure that foundations' good ideas and resources are used not only on high-profile agenda setting, but to implement, evaluate, and improve policy efforts. Otherwise, it's just a waste of taxpayer dollars, both directly and indirectly;
- 8) Over-emphasis on professionalization and communications campaigns will only continue to detract from the actualization of foundations' policy goals, perceived legitimacy, and blowback.

From a government relations perspective, taken together, these cases point to the significant policy role of the federal government for the foundation sector, due to the "power of the purse" in the *Income Tax Act*. As responsibilities for the provision of social services and supports are devolved from the federal government to the provinces and the third sector, the Department of Finance's ability to influence those policies (e.g. within the PSE and health sectors, which are provincial jurisdictions) through the *Income Tax Act* warrant scrutiny. Alternative funding sources are available to the third sector to help them meet this mandate, but efforts to increase those resources through charitable tax incentives, and to access to those resources (from foundations) are stymied through the interference of the CRA. At the same time, respect for the CRA's role in ensuring that no undue personal benefits are accrued to donors or foundations is critical. In addition, reservations regarding the potential policy engagement of actors that are not democratically elected or accountable are appropriate. Charities and foundations need to

work better together (i.e. not just foundations amongst themselves) to improve these macro structures. This also requires that foundations improve the effectiveness of their policy efforts, and their perceived legitimacy with charities, governments, and the public.

There is a key lesson in these cases for the nature of the third sector in Canada. While provinces have authority over the charitable sector, the health sector, and the PSE and innovation sectors, the Department of Finance de facto makes policy through its authority vested in the *Income Tax Act* (Elson 2011; McRae 2011). The oversight and regulatory role of the federal Ministry of Finance and the CRA ensure a balance between opportunities in the third sector across provinces and organizational types. These rules and structures can direct private dollars to particular policy domains and can ensure some equity across the provinces. However, the potentially competing policy perspectives (as highlighted in the Crown foundation case in particular) might suggest that there is a need for more formalized coordination between the federal government and the provinces in relation to charitable tax policy, similar to the Council of Ministers of Advanced Education, for instance. This would mean a more explicit reconciliation of federal and provincial social policy objectives. Alternatively, it might be helpful if ministers and departments with responsibilities for engaging with the third sector were to coordinate their efforts (for description of formal, informal and non-formal, see Glossary).

In the two fiscal policy cases discussed here (i.e., the capital gains tax exemption and the university Crown foundations) foundations and foundation representatives addressed the regulations by which they themselves are governed. Foundations' policy focus on charitable tax incentives, however, might have reinforced the idea that private foundations are simply tax havens. This narrow policy focus detracts from foundations' efforts to convince members of the public, the third sector, and the public sector that they add value from a pluralist perspective by bringing resources to the table, or by supporting and stewarding innovative policy solutions.

Moreover, the state should not be too quick to jump at the opportunity for flashy “photo ops” with international celebrities, or to take up foundation gifts without seriously contemplating the intended policy directions. Policy makers should consider whether the terms embedded in their agreements with donors aligns with the perspectives of their electoral constituencies. If not, is it still appropriate to spend public dollars in that way? In addition, has

sufficient policy evaluation been conducted (perhaps even in house), to assess whether the initiative is ripe for investment and implementation.

8.10 Limitations

Like any research project, this research has its limitations. The first limitation concerns the research method. This is a qualitative, comparative, multi-case study, focusing on foundations in Canada over a relatively recent period of time across only three policy domains. It is possible that by the time these results come available for broader dissemination, they will be outdated. It is possible that less-complex methodologies might produce research outcomes that can inform policy makers and policy actors in a timelier way.

However, in this investigation, the research specifications case studies require, which can be seen as inherent limitations of the approach, also correspond with the application of established empirical research on foundations and think tanks in other countries. In particular, the multi-national comparative literature on foundations reveals the importance of context for research related to the roles foundations can play in policy. Accordingly, in order to establish a sufficient information base regarding the Canadian context, and given the lack of research on foundations in Canada, it was necessary to limit the geographic, political, and economic scope of this research.

The other limitation of this research is that it employs and references the well-established US and multi-national comparative, secondary data and interdisciplinary research on foundations, but focuses only on Canadian foundations. This, for instance, is opposed to having compared foundations in Canada to those in the United States, either quantitatively or from a macro perspective, or having compared the role of the Gates Foundation in a case covering both Canada and the United States. These latter approaches, however, are more suited to the popular literature on foundations, where the key issue is selection bias. Fiscal policy related to foundations in Canada tends to be biased negatively and is a result of an overemphasis in the discourse related to foundations in the US, despite the significant differences and evidence of much policy transfer from the UK.

8.11 Future Research

Only a select few of the most noteworthy international multidisciplinary studies on foundations contemplate Canadian foundations (Anheier and Daly 2007; Laforest 2009; Phillips 2009; Salamon and Anheier 1997). This dissertation helps address the gap in the literature by using the findings of the established literature on foundations, along with an established theoretical public policy framework, to elucidate the role of foundations in Canada. The approach makes this dissertation's research findings comparable to those of established works.

That said, a multi-case comparative approach might have compared Canadian foundations against foundations in the United States or other countries. In this regard, there are many other potential areas for future research. It would, for example, be instructive to apply the conclusions of this research to Indigenous and community foundations in Canada. Another area that requires further research is where third-sector actors, once formally organized, are equally or sometimes even more risk averse than public-sector actors. This prompts the question of whether foundations become path dependent, or not. Observers, practitioners, and scholars of the third sector often view foundations' propensity for risk-seeking behaviour as a valuable contribution, but one that is more appropriate for private rather than public funding. Their potential innovations resulting from risk-seeking behaviour provides legitimacy to the place of foundations in policy making because they acknowledge undertaking projects that might fail. In fact, some argue that foundations should take on more entrepreneurial behaviour.

Most of the Canadian research on foundations (conducted primarily by professional associations, foundations themselves, and umbrella organizations like PFC) focuses on organizational strategies. These include governance (boards, mission statements, and decision structures), internal organizational structures, strategic planning, and available resources – all potentially limiting factors in the effectiveness of foundations. While these were not the focus of this thesis, they are another area ripe for future research in Canada. Indeed, the American literature and anecdotal findings in Canada point to the potential implications of these internal factors for foundations' effectiveness in influencing public policy. Some research warns that with increasing bureaucratization comes decreased innovation and a tendency toward incrementalism (which may not be a bad thing when considered in light of the Gates Foundation case). This postulate requires further research for foundations in the Canadian policy-making context.

In the PSE policy domain, several instances of organizational proliferation by foundations for universities were uncovered. These were examples of foundations giving to universities to pursue the donors' policy agendas. A review of the extent of foundation giving to universities across provincial jurisdictions would be a valuable empirical contribution to the research on foundations in Canada. In the case of the proliferation of Crown foundations across Canada, it was suggested that it led to a significant but disparate influx of resources into the PSE and health sectors. Moreover, that disparate distribution of resources might have been at the expense of particular geographic regions or other policy domains where foundations provide financial support. These would be interesting quantitative research undertakings that could contribute a great deal to the literature. They might also provide evidence to support or dispute Lagemann's (1992) suggestion that foundations constitute a fourth sector in Canada.

In addition, the research method of requesting primary source data and documents from public organizations such as governments and universities is not well documented. Accessing information and regulations through provincial and federal privacy is not a simple or quick undertaking. The experiences requesting information at the federal and university levels were quite different. Further exploration of the different processes would be a meaningful contribution to the methodological literature and could assist other scholars in their research endeavours. The methodological approach and research findings presented here may provide a useful basis for such a project.

In terms of the significance of the present study for future research on foundations and public policy in Canada, these individual cases might be compared or contrasted to cases of similar policy efforts in other countries, or in similar policy domains, e.g. health, where foundation engagement has been evident. The overarching findings from this dissertation can be considered in light of similar research on US foundations' engagement in public policy. The findings can also be considered as complementary to the existing comparative research on foundations, where data from Canada is lacking. Another interesting area for potential research inspired by this study is the role of international foundations on domestic policy in Canada. Quantitative analysis of international foundation funding for government, non-profit, and charitable organizations in Canada would provide interesting insights into foreign influence in domestic policy making.

Existing studies of the third sector suggest that foundations are more successful in pushing their policy agendas forward when they have established their legitimacy with the state. It appeared that for these foundations, creating umbrella organizations, and finding influential policy actors to plead their cases improved their legitimacy. There is an interesting contrast when this is considered alongside another finding of Kryvoruchko's quantitative research on Canadian foundations, which suggests that foundations bestow legitimacy onto their recipient organizations, giving indications to other donors where their resources are best invested (2013).

8.12 Conclusion

The findings of this study help us better understand the roles of foundations in Canadian public policy. The research demonstrated that in each of these cases, philanthropic foundations operating in Canada acted as policy entrepreneurs; they used different strategies to gain access to policy makers, politicians, and policy agendas; moreover, these strategies were more successful at the earlier stages than they were at the later stages in the policy cycle. These foundations' varying influence across the cycles is attributable to both the external environment, e.g. the uniquely Canadian context within which they operate or in the context of changing scientific developments, and the internal strategies that these organizations and individuals used in order to increase and solidify their legitimacy as policy actors in Canada. These findings were consistent across these Canadian cases of foundation engagement in public policy, regardless of policy domain, the open or closed nature of the policy regime, the type or size of foundation, amount of funding that was at stake, or the level of government involved.

APPENDIX A – Overview of Interviews

Fifty-nine unique interviews were requested to support this research. Forty-two interviews were conducted over two years, from 2014–17. The response rate for requests for interviews was 70%. Forty-two individuals representing 39 different organizations (at relevant points in time for the selected cases) agreed to participate. Interview data is enumerated in Table A-3. Data regarding declined interviews is provided in Table A-4.

For the post-secondary education (PSE) policy case, 17 interviews were requested and 14 were granted. For the health-research policy domain (Gates Foundation case), 14 interviews were requested and nine were granted.

For the fiscal policy case (the capital gains tax exemption for the donation of publicly listed securities) 14 interviews were requested and 13 were granted. In addition, 14 general interviews were requested, and six were granted.

Participants acted as board and committee members, executives, managers, directors, staff, authors, politicians, civil servants, donors, fundraisers, experts, lawyers, and volunteers. The names of individuals are hidden from the published data in order to protect the confidential nature of the research interviews.

Table A-3. Interviews Conducted

#	Case	Role	Affiliation	Date	Method	Location
1	Gates	Manager	Government of Canada, Public Health Agency of Canada (PHAC); Canadian HIV Vaccine Initiative (CHVI)	20-11-14	In person	Ottawa
2	Gates	Staff	Government of Canada, Public Health Agency of Canada (PHAC)	20-11-14	In person	Ottawa
3	Gates	Executive; Expert	Global HIV Vaccine Initiative; Canadian Association for Advanced Research	15-04-15	Telephone	Saskatoon - Toronto
4	Gates	Politician; Executive	International Centre for Infectious Diseases; Government of Canada; Liberal Party of Canada	15-05-15; 01-05-15	Telephone	Saskatoon - Winnipeg
5	Gates	Politician; Executive	International Centre for Infectious Diseases; Government of Canada; Liberal Party of Canada	01-05-15; 15-05-15	Telephone	Saskatoon - Winnipeg
6	Gates	Executive; Expert	Gates Foundation; World Health Organization (WHO); Global HIV Vaccine Initiative (GHVI); CHVI	12-05-15	Telephone	Saskatoon - Washington
7	Gates	Staff	Gates Foundation; GHVI	14-05-14	Telephone	Saskatoon - Washington
8	Gates	Executive	Canadian Association for HIV Research	14-05-15	Telephone	Saskatoon
9	Gates	Staff	Gates Foundation	03-09-15	Telephone	Saskatoon
10	General	Manager	Imagine Canada	20-11-14	In person	Ottawa
11	General	Manager	Imagine Canada	21-11-14	In person	Ottawa
12	Tax	Executive	Government of Canada, Department of Finance	21-11-14	In person	Ottawa
13	General	Executive	Muttart Foundation	23-04-15	Telephone	Saskatoon - Edmonton

#	Case	Role	Affiliation	Date	Method	Location
14	General	Politician; Expert	Royal Commission, Government of Canada; Government of Saskatchewan	05-05-15	In person	Saskatoon
15	Tax	Manager; Staff	McConnell Foundation; Government of Canada	27-11-15	Skype	Saskatoon - Ottawa
16	Tax	Board member; Expert	Scotia Private Client Group; National Ballet of Canada; Canadian Association of Gift Planners	17-11-14	In person	Toronto
17	Tax	Manager	Government of Canada, Department of Finance	21-11-14	In person	Ottawa
18	Tax	Lawyer	Drache and Aptowitzer, LLP	06-06-15	In person	Ottawa
19	General	Lawyer; Expert	Drache and Aptowitzer, LLP		Email	Ottawa
20	Tax	Executive; Expert	Philanthropic Foundations Canada (PFC)	14-04-15	Telephone	Saskatoon - Montreal
21	Tax	Executive; Expert	PFC	15-04-15	Telephone	Saskatoon - Montreal
22	Tax	Expert; Staff	Government of Canada, Department of Finance	14-05-15	Telephone	Saskatoon - Ottawa
23	Tax	Expert; Donor	Lupina Foundation; PFC; Government of Ontario	01-05-15	Telephone	Saskatoon - Toronto
24	Tax	Expert; Donor	Lupina Foundation; PFC; Government of Ontario	08-05-15	Telephone	Saskatoon - Toronto
25	Tax	Donor; Volunteer	National Ballet of Canada; Philanthropic Foundations Canada; Hospital Foundation	06-03-15	Telephone	Saskatoon - Toronto
26	Tax	Staff	Government of Canada, Department of Finance	21-11-14	In person	Ottawa
27	Tax	Executive; Board member	Community Foundations Canada; Community Living London	30-08-16	Telephone	Saskatoon - Ottawa
28	PSE	Executive; Board member	University of Saskatchewan (U of S), Edwards School of Business; Cameco Corp.	13-04-15	In person	Saskatoon

#	Case	Role	Affiliation	Date	Method	Location
29	PSE	Executive	The Calgary Foundation	04-04-16	Telephone	Saskatoon - Calgary
30	PSE	Donor; Board member	Anluan Foundation; Hanlon Centre, U of S		In writing	Calgary
31	PSE	Board member; Volunteer	The United Way of Saskatoon	17-08-16	In person	Saskatoon
32	PSE	Staff	Wilson Centre, Hanlon Centre, U of S	14-07-14	Phone	Saskatoon
33	General	Board member; Volunteer	The United Way of Saskatoon	09-16-2017	Phone	Toronto
34	PSE	Expert; Board member	Centres Sub-Committee of the Planning and Priorities Committee of University Council, U of S	17-08-16	In person	Saskatoon
35	PSE	Executive; Fundraiser	University of Saskatchewan; DCG Philanthropic Services Inc.	30-08-16	In person	Saskatoon
36	PSE	Expert; Staff	Government of Saskatchewan, Ministry of Advanced Education; U of S	05-09-16	In person	Saskatoon
37	PSE	Expert; Staff	Government of Saskatchewan, Ministry of Advanced Education; U of S	05-09-16	In person	Saskatoon
38	PSE	Staff	Saskatoon Community Foundation	09-09-16	Phone	Saskatoon
39	PSE	Staff	Wilson Centre, University of Saskatchewan	03-03-16	Telephone	Saskatoon
40	PSE	Staff	Wilson Centre for Entrepreneurial Excellence, Hanlon Centre, U of S	23-07-14	In person	Saskatoon
41	PSE	Expert; Lawyer	Victoria Foundation; Hospital Foundation	16-04-17	Telephone	Victoria
42	PSE	Expert; Lawyer	Consulting Firm	5-05-17	Telephone	Vancouver

Table A-4. Declined Interviews

#	Role	Affiliation	Response	Request	Location
43	Expert	Researcher CHVI facility	Denied	Email	Winnipeg
44	Expert; Executive	Gates Foundation, Global Health	Denied	Email	Unknown
45	Politician	Conservative MP, Standing Committee on Health, CANADA	Denied	Email	Unknown
46	Politician	Liberal MP, Standing Committee on Health, Government of Canada	Denied	Email	Unknown
47	Executive	Philanthropic Foundations Canada (PFC); McConnell Foundation	Denied	Email	Unknown
48	Author	Author of "Philanthrocapitalism"	Denied	Email	Unknown
49	Executive	McConnell Foundation	No answer		Montreal
49	Board member	The Vancouver Foundation	Not confirmed	Telephone	Saskatoon - Vancouver
50	Executive	Community Foundations Canada	No answer	Email	Ottawa
51	Staff	Anluan Foundation; Hanlon Centre, University of Saskatchewan	Declined	Telephone	Saskatoon
52	Manager; Expert	Gates Foundation; GHVI	Delegated	Email	Seattle
53	Volunteer; Donor	W. Brett Wilson Centre for Entrepreneurial Excellence	Not confirmed	Email	Calgary
54	Executive	Max Bell Foundation	Not confirmed	Telephone	Unknown

#	Role	Affiliation	Response	Request	Location
55	Board member; Expert	Executive	No answer	Email	Saskatoon
56	Executive	Saskatoon Community Foundation	Delegated	Email	Saskatoon
57	Executive	The United Way of Saskatoon	No-show	Email	Saskatoon
58	Executive	Max Bell Foundation	No answer	Email	Calgary

APPENDIX B – Interview Methods and Data Collection

In the section that follows, a sample of an email invitation is provided that would have been sent as a request to participate in a research interview. The dissertation abstract (see below) and the research ethics approval form were also attached. Next, a thematic sampling of research questions is provided. Before each of the interviews, I reviewed the general questions I had developed, identified the applicable questions specific to the case study, and identified any questions I had for the interview participant. A one-page summary of guiding questions was provided to the participant in advance of each conversation. Recall, as noted in the methods chapter, that interviews took place in person, or by phone, generally, but also once by Skype and a couple times via email or mail.

Sample Interview Invitation

Dear _____,

I hope this email finds you well. I am writing to request a research interview with you regarding the role of foundations in Canadian public policy, given your involvement/experiences with _____.

I am a PhD student at the University of Saskatchewan in Public Policy. My thesis supervisor is Dr. Daniel Béland, Canada Research Chair at the Johnson-Shoyama Graduate School of Public Policy. I am in the final stages of writing my dissertation and completing final interviews to complete my research as well as to affirm my findings.

If you are available and interested, the interview should only take about 20–30 minutes, and can be arranged at a time most convenient for you. I will provide a list of questions in advance to inform our conversation. I have attached my research ethics approval and an abstract for your information.

I look forward to hearing from you, and hopefully setting up a time to connect.

Many thanks,

Jacquie Thomarat, M.A., PhD Candidate (ABD)

Sample Research Abstract for Potential Interview Participants

Dissertation: Philanthropic Foundations and Public Policy Agendas in Canada

Jacquie Thomarat, MA, PhD Candidate (ABD)

Excerpt from introduction

“The wealth, number, and apparent influence of philanthropic foundations in Canada is increasing. The dissertation, *Philanthropic Foundations in Canada: An Application of the Multiple Streams Framework*, will examine institutional processes that shape foundations’ engagement in public policy, their agenda-setting role, and their impact for public policy in Canada. Foundations play a prominent role in the formulation of public policy – contributing to social policy discourse, policy ideas, and solutions.

The research will assist policy makers, foundation executives, and scholars in clarifying the place of foundations as policy actors. As a first step in the study, this proposal will outline the research agenda, provide a background on philanthropic foundations, review the relevant literature, consider the appropriate conceptual framework, sketch the proposed methodology, and present a bibliography.

The dissertation will consider case studies in three different policy fields: health, tax, and post-secondary education, as follows: 1) a partnership between the Government of Canada and the Gates Foundation for a health research facility that would facilitate the potential development of an HIV vaccine (2003-2011); 2) the case of the elimination of capital gains tax on the donation of securities between (circa) 2006–2013; 3) the establishment of Crown foundations for universities across the country from 1987–1996.

Through research, analysis, and comparison of the selected case studies, this dissertation will shed light on the role of philanthropic foundations in the specified public policy areas in Canada. The knowledge generated from the study will prove useful to politicians, policy experts, practitioners, foundations, and scholars alike. This will enable more informed policy decision making and will also address a considerable lacuna in Canadian public policy literature.”

Sample Interview Questions

General Questions

- What is your role in this foundation or organization or case?
- How do philanthropic foundations engage in public policy?
- Does the foundation have a particular focus or vision in its community or public participation?
- Why does this [philanthropic foundation] engage in agenda-setting policy discourse?
- Does the foundation's participation vary across policy areas? Why or why not?
- What are the motivations for the foundation's participation in this policy area?
- How do foundations get issues onto the agenda? Are they effective in getting their policy issues or ideas onto the agenda? Why or why not?
- Is a financial contribution (i.e., a donation or grant) a contributing factor to the perceived policy influence of the foundation?
- Do they have more or less policy influence than other actors as a result of their financial contributions (or lack thereof)? Do agendas change as a result of their participation?
- How do the internal characteristics of philanthropic foundations, such as organization size, history, and scope of giving, challenge or enable their contributions as policy actors?
- How do external factors affecting philanthropic foundations, such as politics, institutional contexts, and policy networks, challenge or enable their contributions as policy actors?
- Does the foundation have an affect (positive or negative) on policy outcomes?

PSE Case Study Sample Questions

- What was your role in the establishment of the research centre at the university?
- What was the process for the establishment of the new centre/foundation?
- How did the foundation, donor, or other actors engage in the process?
- How did donors (or the foundation) engage in setting the research/teaching agenda?
- Was a financial contribution (i.e., a donation or grant) a contributing factor to the perceived policy influence?
- Did foundations have more or less policy influence than other actors as a result of their financial contributions (or lack thereof)?

- Who did the donor/foundation speak with regularly?
- Did the nature of the policy change as a result of their participation?
- Does the foundation or the donor participate in the operations or oversight of the centre?
- Who were the other actors in this case?

Health-Research Case Study Sample Questions

- What was your role and the role of your organization in this case?
- What was the role of the Gates Foundation in this case? What was the role of the government of Canada? And the ministry?
- What was the role of the GHVE in setting or influencing the policy agenda?
- What was the role of the Gates Foundation in setting or influencing the agenda for the Canadian HIV Vaccine Initiative?
- Who were the key players in establishing the Global HIV Vaccine Enterprise?
- What was the role of the government of Canada?
- Is the partnership that resulted unique? If so, how?
- Did the different partners involved in the project define the policy problem differently?

Fiscal Policy Case Study Sample Questions

- Did foundations play a role in influencing the policies that regulate foundations?
- Does the extension of the capital gains tax exemption to foundations signal the delegation of responsibility for social welfare to the third sector and away from government?
- Did any apparent biases permeate the policy discourse regarding the exemption?
- What was the goal of the proposed policy to eliminate the capital gains tax exemption?
- Why were foundations excluded from the original pilot? Did they or any other umbrella organization advocate to include foundations in the exemption?
- Describe the role of the minister, the CRA, the Charities Directorate, and the Department of Finance in this case.

APPENDIX C – GLOSSARY

Throughout the professional, academic, and popular literatures, and within our common vernacular. We cannot seriously contemplate the roles of foundations in public policy unless there is some established agreement about what it is that we are attempting to describe, and what exactly we are observing. If we cannot come to agreement, however (which seems to be our current state), we must at least establish the differences between our perspectives in order to put in place the parameters for building understanding based on such studies.

Term	Definition
Advocacy	<p>“Non-profits historically have played three distinct roles in relation to government: complementing, supplementing, and advocating change. Investing resources in advocacy to change public policy often appeals when existing policy and practice seem fundamentally misguided” (Sandfort 2008, 542). According to the CRA, “A charity may take part in political activities if they are non-partisan and connected and subordinate to the charity’s purposes. [CRA] presumes an activity to be political if a charity: explicitly communicates a call to political action (that is, encourages the public to contact an elected representative or public official and urges them to retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country); explicitly communicates to the public that the law, policy, or decision of any level of government in Canada or a foreign country should be retained (if the retention of the law, policy or decision is being reconsidered by a government), opposed, or changed explicitly indicates in its materials (whether internal or external) that the intention of the activity is to incite, or organize to put pressure on, an elected representative or public official to retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country” (Canada, CRA 2003).</p>
Capital gains (losses)	<p><i>Income Tax Act</i> Paragraph 40(1)(a) defines capital gains or losses as the monetary value “equal to the amount by which a taxpayer’s proceeds realized on a disposition of property” exceeds the cost of the property and</p>

	<p>expenses from the sale (Edgar, Sandler, and Cockfield 2010, 559).</p> <p>According to this provision, “the disposition of all forms of capital property” will be taxed based on the tax rate for an individual’s earned income (2010, 559). The purpose of the capital gains tax in the <i>Income Tax Act</i> is “to provide horizontal tax equity to different ways of earning money, either through playing stocks, or getting a paycheck, and vertical equity because more rich people play stock markets and capital gains” (Hogg, Magee, and Li 2012, 532).</p>
Charitable foundation	<p>“According to sub-section 149.1(1), a charitable foundation is defined as: a corporation or trust that is constituted and operated exclusively for charitable purposes, no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof, and that is not a charitable organization... Charitable foundations generally act as conduits for distributing funds to charitable organizations” (Hoffstein 2007, 3).</p>
Charities	<p>“Briefly, a charitable organization is an organization, whether or not incorporated, that meets all of the following requirements: all of the organization’s resources are devoted exclusively to charitable activities carried on by it; no part of the income is payable to or otherwise available for the personal benefit of any proprietor, member, shareholder, trustee or settler thereof; and, it cannot be controlled by a group of related directors/officers/trustees” (Hoffstein 2007, 1, referring to <i>Income Tax Act</i> Subsection 149.1[1]).</p>
Closed policy regime	<p>With regard to fiscal policy, “Canadian governments have become less permeable, especially at the federal level, with few mechanisms for ongoing dialogue with civil society other than the annual budget consultations at which organizations get one shot to present new ideas. If federal departments are doing anything innovative to engage civil society, they are deliberately flying under the political radar because there is no interest in such engagement from the centre” (Phillips 2010, 69).</p>

Community foundation	<p>“Between these extremes [of private foundations and public foundations] lie community foundations, which, as the name suggests, seek to support charitable works in a particular municipality or region. A community foundation has a somewhat broader focus than a parallel foundation, but nevertheless maintains a direct link to people and programs in the local community” (Hoffstein 2007, 26). “An independent philanthropic organization working in a specific geographic area which, over time, builds up a permanent collection of endowed funds contributed from many donors, provides services to those donors, and makes grants and undertakes community leadership activities to address a wide variety of current and long-term needs in its service area. The foundation is governed by a board of citizens broadly reflective of the community its serves” (Feurt 1999, 25).</p>
Crown foundation	<p>A Crown foundation is “created by statute which is stated to be ‘an Agent of the Crown in the right of the Province’ and has the purpose of providing funds to a particular institution or class of institutions” (Bromley 1993, 37).</p>
Entrepreneur	<p>The conventional definition according to the business or economics literature is “An agent who enables or enacts a vision based on new ideas in order to create successful innovations” ([Schumpeter 1950, 44] quoted in Dacin, Dacin, and Matear 2010, 44). New developments in the management literature build on this definition, and extend action beyond the private sector, to the public and third sectors as well (Drucker 1985).</p>
Family foundation	<p>“The classic family foundation... has a majority of family members on its board and has been funded by one person or a related group” (Hoffstein 2007, 3). It is generally a private, endowed, grant-making foundation.</p>

Foundation	<p>“A charitable foundation is a corporation or trust that is constituted and operated exclusively for charitable purposes, subject to the restriction that no part of its income may be paid to or available for the personal benefit of any member, shareholder, trustee, etc., of the foundation, and that is not a charitable organization. Charitable foundations generally act as conduits for distributing funds to charitable organizations” (Hoffstein 2007, 3, ITA 149.1).</p>
Funding regime	<p>A report by the Canadian Council on Social Development describes the funding regime for the third sector as “the practices and structures that shape the relationship between funders and the funded, and thus set the context for nonprofit activity” (Scott and Pike, 2005, 11).</p>

Garbage-can theory	<p>In <i>Rediscovering Institutions</i>, March and Olsen (1984) grapple with the ambiguity inherent to public policy. They present “garbage-can theory,” within neo-institutionalism. Three themes are suggested: that the logic of causality or consequentiality should be replaced with the logic of appropriateness; that social construction is more important than the realm of preferences and exogenous interests, and that the development of political institutions is historically constructed (1984, 3-10; see also Cohen, March, Olsen, 1972). There are four streams in garbage cans: problems, solutions, choice opportunities, and participants. The streams interact in a non-linear policy process, participation is fluid, and preferences unclear. March and Olsen’s (1947) garbage can theory purports that organizational choices are characterized by ambiguity, information problems, and uncertainty. Solutions seek out problems, and participants come and go from decision-making processes. Within organizations, people employ bounded rationality to inform decision-making; informal relationships, personalities, politics, ideas, agendas, interests, and interest groups matter (Simon, 1947; Seibel, in Anheier and Seibel, 1990).</p>
Government failure	<p>The theoretical premise of government failures approaches to research on the third sector is that charities, non-profits, and foundations are subsidiary to the state. Authors in this area have used public choice theory to understand the rise of the third sector. Weisbrod, in 1977, originally purported that the third sector, or non-profit sector (as it was then described) may exist as a result of the failure of the state to provide collective goods effectively or efficiently to the population (Badelt, 56; Olson, 1965). This suggests that, as a result of the failure of the social contract (Rousseau, 1920), the private sector and the state exist; “when demand is heterogeneous, citizens who want more or different goods than the state provides form NPOs to supplement public provision” (DiMaggio and Anheier, 1990, 140). Public policy approaches to studies of the third sector more often assume government failure. Markets fail, and governments are not always able to address all the resulting gaps, primarily related to the provision of collective</p>

	goods, or related to contract failures. Weisbrod noted that all NPOs generally provide collective goods, but government does not provide the full scope of these goods.
Grant-making foundations	Another term used to identify private or public philanthropic foundations that distribute funding to more than one NPO. Sometimes the use of the term “grant-making” excludes parallel foundations or government-owned foundations. “A key feature of the foundation is a permanent endowment, not committed to a particular institution or activity, that provides a grant-making capacity reaching across multiple purposes into the indefinite future” (Prewitt 2006, 365).
Informal regime type	According to Elson, “Informal institutional structures reflect an ad-hoc representational and reporting protocol that is also non-transferable across time and issues” (2008, 139). The third sector is considered an informal regime type in that there is no elected minister responsible for the charitable sector at the federal level, or at the provincial level.
Information asymmetry	Foundations have the potential to reduce information asymmetries between donors, volunteers, and charitable organizations (Kryvoruchko 2013). This is the basis of the trustworthiness theory, or trust theory. “Trust theory [has been] tested using a measure of a country’s degree of trust in business, since this theory predicts that non-profits are likely to emerge where the non-profit-distribution constraint is needed to generate confidence that services will be provided adequately because information asymmetries give for-profit businesses an opportunity to take advantage of consumers” (Hansmann 1987, cited in Anheier and Salamon 2006, 104).
Institutional change	“Institutional change shapes the way societies evolve through time and hence is key to understanding historical change” (3). “Evolution of the common law [is] a form of institutional change” (North 1990, 96). “Improved understanding of institutional change requires greater understanding than we now possess of just what makes ideas and ideologies

	<p>catch hold. Therefore, we are still at something of a loss to define, in very precise terms, the interplay between changes in relative process, the ideas and ideologies that form people's perceptions, and the roles that the two play in inducing changes in institutions" (86). "The difference between institutions and organizations and the interaction between them shapes the direction of institutional change" (7). In addition, "in the course of pursuing [their] objectives, organizations incrementally alter institutional structure" (73).</p>
Institutional choice	<p>Social origins theory purports that the existence and persistence of the third sector in the public-private dichotomy is an institutional choice rather than a failure of the market or the state (Rose-Ackerman, 1986; Weisbrod, 1988; Anheier and Seibel, 1990; Salamon, 1988).</p>
Institutional entrepreneurs	<p>"In a classic definition of institutional entrepreneurship, DiMaggio states, 'new institutions arise when organized actors with sufficient resources (institutional entrepreneurs) see in them an opportunity to realize interests that they value highly' (1988, p. 14)" (Quinn 1992). "Scholars have investigated how some organizational forms gain legitimacy while others lose favour, finding that institutional entrepreneurs recombine cultural elements to frame preferred organizational forms as "necessary, valid, and appropriate" (Quinn, Tomkins-Stange, Meyerson 2012, 952). Institutional entrepreneurs "seek to create, erode, or alter existing institutional arrangements" (Dacin, Dacin and Matear 2010, 50). This overlaps with the definition of policy entrepreneurs, as policy pertains to institutions, and vice versa" (See also DiMaggio & Powell 1983).</p>
Institutional failure	<p>Institutional choice framework provides understanding the third sector as a way to deal with the three failures, in any combination of those theories, i.e., market, government, or voluntary failure. "Institutional failure can be defined as high transaction costs (including delay, vexation, dissipation of energy) of arriving at agreements, dealing with 'holdouts,' breaking deadlocks, making service provision difficult or impossible. It is often associated with externalities (spillover costs for which the actor(s) who</p>

	<p>generate the costs cannot be obliged to pay, or spillover benefits which cannot be fully appropriated by those who create them)” (Hood and Schuppert 1990, 102). Salamon states that this role of the third sector is due to “the transaction costs involved in mobilizing government responses to shortages of collective goods tending to be much higher than the costs of mobilizing voluntary action” (1987, 39-42).</p>
Institutionalism	<p>The new institutionalist approaches to political studies (March and Olsen 1989) and public policy include: historical institutionalism, sociological institutionalism, and rational choice institutionalism (Wilson, 1989; March and Olsen, 1989; Campbell, 2004). “New institutionalism argues that political analysis is best conducted through a focus on institutions, or more specifically, when starting off with institutions” (Lecours 2005, 6). Along these lines, Lecours notes, “Institutions shape policy making, including the mobilization of actors and the structuring of policy networks and interest groups” (2005, 223).</p>
Institutions	<p>Traditionally, the “old” institutionalism defines institutions as material structures, including for example: bureaucracies, governments, courts, etc. Whereas, society-centered and normative definitions focus on rules, norms and values. New institutionalism grapples with these two contrasting definitions (Lecours 2005, 6-7). “Extending the notion of institutions beyond formal structures – and this is where the debate within new institutionalism becomes significant for political science – may serve to bridge the gap between [the aforementioned] institutionalist approaches... (2005, 8).</p>
Market failure	<p>Assumes an institutional hierarchy of public or private organizations dominating third-sector organizations, which, as noted, is inconsistent with the literature on the third sector. Civil society perspectives posit that the third sector is the first line of response to market failures and that government responds only where the third sector fails to meet the demands for collective goods. Markets fail, and governments are not always able to address all the resulting gaps, primarily related to the provision of collective goods, or</p>

	<p>related to contract failures. NPOs address contract failure through non-distribution constraints, which reduces the race to the bottom for quality in the interest of profit; enhanced trustworthiness; and, NPOs are managed by “demand-side stakeholders” (Ben-Ner 1986) in that they are more concerned with the outcomes produced as they relate to the organization’s objectives, including quantity and quality (Steinberg 2006, 123-124).</p>
Multiple streams framework	<p>Kingdon’s framework assists in understanding how policy decisions are made and agendas are set; in organizing and understanding the complexities of the policy process; and sorts through key policy-making elements, called multiple streams, to provide an understanding of how agendas are set. The streams include problems, politics, policies, and participants (including policy entrepreneurs such as foundations) (1984, 1995, 2003).</p>
New Public Management (NPM)	<p>“NPM movement is responsible for placing questions of governance of public sector restructuring... A distributive government framework that requires that the third sector invest resources, time and finances in building its own coordinative capacities in order to have impact on policy development” (Evans and Shields 2005, 150-151).</p>
Non-formal regime	<p>According to Elson, “The non-formal institutional structure type features [a] transitory representational and reporting system that is non-transferable across time and issues” (2008, 139). The PSE sector is considered a non-formal organizational regime type. Evidence of the non-formal nature of PSE policy is that at the federal level, no role for the minister of education exists, whereas there do exist federal ministerial positions for health and social welfare (Fisher and Jones 2006, 115).</p>
Non-profit entrepreneurs	<p>“Research on entrepreneurship within non-profit organizations has generally been approached under the broader guise of ‘social entrepreneurship,’ a concept which has a number of different connotations... For instance, Brooks and Morris (2005) refer to ‘new and novel mixes of opportunities, challenges, ideas, and resources in pursuit of potentially explosive (non-financial) rewards.’ It ‘transcends the non-profit context and</p>

	<p>highlights any sort of bold social innovation. A more pragmatic perspective emphasizes non-profits engaged in for-profit ventures to cross-subsidize core non-profit activities” (Dees, et al., 2001). “Between these two interpretations is a conceptualization that focuses on entrepreneurial actions pursued by established non-profit organizations (Sullivan et al., 2003).” (Morris, Coombes, Schindehutte, and Allen 2007, 13).</p>
Non-profit organizations/ sector	<p>“Non-profit organizations are associations, clubs, or societies that are not charities and are organized and operated exclusively for social welfare, civic improvement, pleasure, recreation, or any other purpose except profit” ... “Note: If you are operating as a charity, you cannot be considered a non-profit organization, even if you are not registered or cannot be registered as a charity. You can only meet one definition, not both” (CRA, Canada, 2016).</p>
Non-government sector/ organizations	<p>Reference to the non-government or government sector in the provision of public goods is explained by the theory of government failure (Rathgeb Smith and Gronbjerg 2006; Steinberg 2006). The main critique of these approaches is that they describe the sector by what it is not, which according to a pithy metaphor by Lohmann (1989) is akin to calling lettuce a “non-animal.” This and other critiques led to the development of theories of voluntary failure (Weisbrod 1988) and social origins, and preference among several scholars for the “third sector” typology (Anheier and Salamon 2006; Anheier and Seibel 1990).</p>
Organizations	<p>“A crucial distinction [is] between institutions and organizations. Like institutions, organizations provide a structure to human interaction.... When we examine the costs that arise as a consequence of the institutional framework we see they are a result not only of that framework, but also of the organizations that have developed in consequence of that framework.” Thus, North distinguishes the rules (institutions) from the players (organizations) (2009, 4).</p> <p>“Like institutions, organizations provide a structure to human interaction.... Organizations are ‘groups of individuals bound by some common purpose of achieve objectives... Both what organizations come into</p>

	<p>existence and how they evolve are fundamentally influenced by the institutional framework. In turn, they influence how the institutional framework evolves” (4–5). According to North, organizations are agents of institutional change, and therefore, so too are the “entrepreneurs” of organizations (e.g., donors are the entrepreneurs of foundations, and both are agents of institutional change).</p>
Organizational choice	<p>“Although organizations can often be viewed conveniently as vehicles for solving well-defined problems or structures within which conflict is resolved through bargaining, they also provide sets of procedures through which participants arrive at an interpretation of what they are doing and what they have done while in the process of doing it. From this point of view, an organization is a collection of choices looking for problems, issues and feelings looking for decision situations in which they might be aired, solutions looking for issues to which they might answer, and decision makers looking for work” (Cohen, March, and Olsen 1972, 2).</p>
Parallel foundations	<p>“A parallel foundation is a foundation set up by an operating charity to raise funds and hold investments primarily for [that] operating charity” (Bromley 1993, 37). “Public foundations exist in a variety of forms. For example, the so called parallel foundation is established to act as a fund-raising and fund administering entity for a particular operating charity, such as a hospital or art gallery” (Hoffstein 2007, 26).</p>
Path dependency	<p>“The consequence of small events and chance circumstances can determine solutions that, once prevail, lead one to a particular path” (North 1990, 94). A pattern of “historically derived continuity” characterizing incrementalism in institutional change (97–98). “Once a development path is set on a particular course, the network externalities, the learning process of organizations, and the historically derived subjective modeling of the issues reinforce the course” (99).</p>

Philanthropic foundation	<p>“A foundation has the following characteristics: It must be an asset-based entity, financial or otherwise... It must be a private entity. Foundations are institutionally separate from government... and are outside direct majoritarian control... It must be a self-governing entity... It must be a nonprofit-distributing entity... It must serve a public purpose... Self-understanding as a ‘foundation,’ i.e. as distinct from operating nonprofit, fund-raising organizations and other types of fund distributing organizations” (Anheier and Daly 2007, 8-9).</p>
Pluralism	<p>According to pluralist perspectives, foundations compete alongside other policy actors for the attention of government and the public. The major role of foundations is their (1) contribution of ideas to policy agendas and (2) money to support good policy ideas and agendas. Authors examining this question focus largely on the contributions of foundations to open, democratic societies comprising educated citizenries (Fleishman, 2009; Lagemann, 1999; Adam, 2004; Béland, 2016). Stone and Garnett (1998) and Hojer (2009) assert that the increasing mediatization of policy, foundations’ access to resources also gives them an advantage in the marketplace of ideas.</p>
Policy agenda	<p>According to public-policy scholars, a policy agenda is set when a government decides that a systemic issue raised in the political community warrants government attention (Howlett 2009, 100). Howlett describes Cobb and Elder’s (1972) conceptualization of agenda setting as the “manner and form in which problems are recognized, if they are recognized at all, [which] are important determinants of whether and how they will ultimately be addressed by policy makers” (Howlett 2009, 92). There are two types of agendas: the public agenda, which is dominated by policy problems that are important to the public and have garnered media attention; and, the policy agenda, which are those issues which government has decided warrant consideration (Elson 2004 2015; Stone, 1996, 92-3; Howlett, 2009; Cobb and Elder 1972). The formal policy agenda, or according to Cobb and Elder (1972), the institutional agenda, comprises a list of problems to which decision-makers are giving active consideration and has been accepted by</p>

	government as something requiring action (Stone, 1996, 92-3; Howlett, 2009).
Policy communities	“According to Kingdon, policy communities involve a wide array of specialists ranging from academics, researchers and think tanks to voluntary sector and private sector leaders to government committee staffers and budget analysts to program and policy officers. At any given time the specialists will be generating their own conceptions of policy problems, ideas, instruments and solutions. Just as molecules floated around in the ‘primeval soup’ before life, so too the policy ideas and instruments being generated by these specialists float around, bumping into each other, forming and being reformed as they do so” (Brock, K. 2008, 3).
Policy domain	A policy domain is “socially constructed by political actors who mutually recognize that their preferences on policy events must be taken into consideration by other domain participants... defined as any political subsystem.” Examples are health, education, and fiscal policy. The policy domain is the system where policy networks are situated (Wu and Knoke 2013, 155).
Policy entrepreneurs	Policy entrepreneurs couple the multiple streams in Kingdon’s multiple streams framework (Kingdon, 1995; Sabatier 2007). Policy entrepreneurs can mobilize support through letter-writing campaigns to ministers, to members of parliament, or to legislatures. Interest groups can send delegations to see government officials, provoke the attention of media, and bring resources to bear on their preferred policy issues (the louder, the better). Foundations as policy entrepreneurs bring together the otherwise independent problem stream with the policy (solutions) stream. Kingdon defines policy entrepreneurs as “advocates for proposals or for the prominence of an idea.” Their defining characteristic is their willingness to invest their resources – time, energy, reputation, and sometimes money – in the hope of future return (2002, 122, 204). Policy entrepreneurs are a subset

	<p>of public entrepreneurs. Public entrepreneurship “is the process of introducing innovation – the generation, translation, and implementation of new ideas – into the public sector” (Roberts and King 1991, 147). Private entrepreneurs, including individuals, groups, or organizations, all avoid collectives, whereas public entrepreneurs need a collective to succeed in the political realm (Schneider and Teske 1992, 741; Dees and Anderson 2006, 11; Dacin, Dacin, Matear 2010; Drucker 1993; Dees 1998; Polsby 1984; Walker 1981).</p>
Policy entrepreneur-ship	<p>“Policy entrepreneurship takes many different forms, and is both organizational and individual. There is no ‘recipe’ or ‘toolkit’ for training on policy entrepreneurship. Instead, it rests on a delicate phronetic blend of ‘softening-up’ actors in the political and policy stream through use of personal contacts, networking, media strategies and powerful policy narratives that simplify technical issues into manageable items of public policy. It is the management of expert discourse rather than the research that empowers think tanks in agenda setting. Policy entrepreneurship is an important social practice in negotiating, sometimes negating, the boundaries between experts and decision-makers. However, equally important is the scholarly credibility and intellectual authority of think tanks” (Stone 2007, 24).</p>
Policy networks	<p>Within a social network, which is a set of connected actors, there are also political networks, which are primarily defined by relationships with unequal power relationships among the actors, and then policy networks within them. A policy networks is meso-level unit of analysis within a political network, useful for the study of policy-making processes. Policy networks are “comprised mainly of formal organizations engaged in collective efforts to influence public policy decisions within nation-states... a set of public and private corporate actors linked by communication ties for exchanging information, expertise, trust, and other political resources” (Wu and Knoke 2013, 154).</p>

Policy problem	<p>Problem definition is the starting point for conceptualizations of policy making. Problems are pre-determinants of policy agendas, but problem definition follows agenda setting. (Rochefort and Cobb 1994). Problems are issues or conditions that are of concern to citizens or governments. Different issues can be defined strategically by actors, or can be pre-determined by institutions, they can evolve with changing cultural norms and mores, and change temporally. “Different actors may promote different issue definitions, but having a sense of what the issues is about is an inherent stage in any decision-making process” (Jones and Baumgartner 2005, 40; also, Rochefort and Cobb 1994; Zahariadis 2007, 70).</p>
Policy windows	<p>Policy windows focus more on the external circumstances in the environment, or events, such as focusing events (broadly defined), not just serendipity. There is a broad literature on focusing events as well (see Birkland and DeYoung). Policy windows are moments of opportunity during which policy change becomes more likely. This can be due to more favourable economic or political circumstances, for instance. Policy windows provide opportunities for policy entrepreneurs to combine the problem, policy, and political streams and bring issues and solutions to the policy agenda (Kingdon 2003; Sabatier 2007, 9).</p>
Political entrepreneurs	<p>“A political entrepreneur is a special kind of actor, embedded in the sociopolitical fabric, who is alerted to the emergence of opportunities and acts upon them; he or she amasses coalitions for the purpose of effecting change in a substantive policy sector, political rules, or in the provision of public goods... [they are] understood as state actors, are the owners of resources that have the absolute power to make decisions regarding the allocation of these resources, in an environment of uncertainty, towards production processes which would not otherwise have taken place. They define and reframe problems (Cobb and Elder 1983; Polsby 1984; Kingdon 1984); specify policy alternatives (Cobb and Elder 1983; Kingdon 1984; Walker 1981); broker the ideas among the many policy actors (Cobb and Elder 1983; Eyestone 1978); mobilize public opinion (Kingdon 1984; Cobb</p>

	and Elder 1981); and help set the decision making agenda (Kingdon 1984; Walker 1981)” (Petridou, E., Narbutaite Aflaki, I., and Miles, L. 2015, 2).
Private foundations	<p>“A private foundation may either carry out its own charitable activities or it may give funds to other qualified donees, usually other registered charities... A registered charity will be designated a private foundation if 50% or more of its directors or trustees do not deal with each other at arm's length, and/or more than 50% of the capital is contributed by a person or group of persons not dealing with each other at arm's length” (Imagine Canada PPT). “A private foundation is a charitable foundation that does not meet the criteria of a public foundation. Essentially, a private foundation is one with either a non-arm’s-length board or one that has received more than half of its capital from a single source... The existing ‘contributions’ test provided that if more than 50% of the capital of a charity was contributed by one donor or a donor group, the charity would be deemed to be a private foundation and thus subject to the more stringent disbursement requirements and restrictions on activities and investments to which private foundations are subject” (Hoffstein 2007, 3; <i>Income Tax Act</i>).</p>
Public foundations	<p>“The Act currently provides that, with respect to charitable organizations and public foundations, more than 50% of the directors or trustees must deal with each other at arm's length and not more than 50% of the capital may be contributed by one person or a group who do not deal with each other at arm’s length” (Hoffstein 2007, 3). “The control test provides that a charity can be designated as a charitable organization or public foundation even if a person or group of persons not dealing at arms’ length with each other has contributed more than 50% of the capital of the charity. However, such a person or group is not permitted to control the charity in any way nor may the person or the members of the group represent more than 50% of the directors/trustees/officers/ like officials of the charity.”</p>

	<p>(Hoffstein 2007, 4). As compared to parallel foundations, “Public foundations exist in a variety of forms.... Other public foundations have a much broader focus, in many cases acting as a sort of umbrella organization for numerous operating charities on a national or an international scale” (Hoffstein 2007, 26). Public foundations include community foundations.</p>
Public Policy	<p>Different definitions of public policy have different foci, emphasize particular parts of the policy process, involve different actors, and include perspectives of actors. The definitions can also be quite simple; for example: “anything government choses to do or not to do” (Dye 1976, quoted in Aminu et. al 2012, 58). For this study, public policy is defined as: “A set of interrelated decisions taken by an actor or group of actors concerning the selection of goals and the means of achieving them within a specific situation where those decisions, should, in principle, be within the power of those actors to achieve” (Jenkins 1978 quoted in Howlett 2009). The merit of Jenkins’ definition is that it illustrates the complexity of public policy and policy-making, without excluding actors from the private or third sectors or individual citizens, though it does not explicitly consider the factors of values, ideas, paradigms, or interests.</p>
Publicly listed securities	<p>Securities are defined as “a share of the capital stock of a corporation resident in Canada, a unit of mutual fund or trust, a bond, debenture, bill, note, mortgage, hypothecary or similar obligation” (Hogg, Magee, and Li 2012, 353). Changes in the value of securities are always considered a capital gain (or loss) (2012, 351). Other types of capital assets include, for instance, private shares, and property, but their charitable tax treatment goes beyond the scope of this chapter as they are treated differently under the <i>Income Tax Act</i>.</p>
Regime	<p>Different government funding strategies for the charitable sector can be described as regimes. “The concept of a regime implies multiple actors who, both through formal and informal interactions, work collectively toward achieving some shared outcomes, in the process develop</p>

	relationships, norms and expectations that govern their own behaviour and that of others” (Phillips referencing Elson 2016, 4).
Self-dealing	<p>Governments in Canada are particularly concerned with “self-dealing” between a foundation, directors of foundations, and other non-arms-length parties, “regardless of whether the dealings are advantageous to the charity and regardless of whether the arrangements comply with the provisions of the <i>Income Tax Act</i> that deals with investments made by a charity. This type of self-dealing commonly arises in the context of a director of a private foundation borrowing funds, typically at an interest rate that is higher than the prevailing interest rate” (Hoffstein and Bradley 2004, 26). “Non-arms-length relationship should not enter into transactions with the foundation as they may be deemed to be receiving an undue benefit. Examples of the kinds of transactions that could give rise to an undue benefit include: sale, exchange or lease of property; loans; extensions of credit; furnishing goods and services to a director; investments in a director’s companies” (PFC 2013, 22).</p>
Social economy	<p>“Private companies that... provide goods, services, insurance or finance, in which the distribution of surpluses and the decision-making processes are not directly linked to the share of capital of each member. As well as those economic agents, whose main function is to produce services not intended for sale, for particular groups of households, financed by the voluntary contributions of families” (Barea Tejeiro 1990, 400 quoted in Powell and Steinberg 2006, 3).</p>
Sociological Institution-alism	<p>“Sociological institutionalism views institutions as the embodiment of ‘symbols, scripts, and routine’ which act as filters through which actors interpret their situation, their particular place in it, and the most appropriate course of action for whatever decision faces them” (Harty 2005, 54). “Sociological institutionalism theorizes about the <i>raison-d'être</i> for organizations and institutions in the third sector, thus posing the normative question. An array of literature is available describing the variety of forms of</p>

	<p>public organization in the third sector including co-operatives, non-profits, foundations, and health, religious, and social service organizations” (Titmuss, 1971; see also Douglas 1992, and Arrow, 1972).</p>
State-owned enterprises	<p>Crown foundations are Crown corporations; they are firms created by statute of the federal or provincial governments. In Canada, state-owned enterprises are most often called Crown corporations (Aucoin 2003). Examples include the CN Railway, the CBC, and the Saskatchewan Liquor Board. In Canada, historically, they have been used as vehicles for significant investments in an area of government jurisdiction, for economic development in particular sectors or regions, or to adapt to the global marketplace. They have also “contributed to integrate and unify the territory, developing and promoting cultural and national unity” (Bozec, Breton, and Cote 2002, 386).</p>
Systemic Policy Agendas	<p>There are two types of agendas: (1) The ‘public agenda,’ which is dominated by problems that are important to the public and have garnered media attention, or the attention of interest groups. This ‘informal agenda’ is also referred to in policy studies as the ‘systemic agenda’; and, (2) The ‘policy agenda,’ which are problems that the government decision-makers or civil service has determined warrant their attention and hopefully, resolution. This is the ‘formal agenda.’ It is also referred to in policy studies as the ‘institutional agenda’ (Cobb and Elder 1972; Elson 2004, 2015; Howlett 2009; Stone 1996, 92-93).</p>
Tax shelters	<p>“In very general terms, a tax shelter includes either a gifting arrangement or the acquisition of property, where it is represented to the purchaser or donor that the tax benefits and deductions arising from the arrangement or acquisition will equal or exceed the net costs of entering into the arrangement or the property. Also, a gifting arrangement where the donor incurs a limited recourse debt related to the gift will be a tax</p>

	<p>shelter. Generally, a limited recourse debt is one where the borrower is not at risk for the repayment” (Canada 2017).</p>
Third sector	<p>Institutional theory designates business and government as the first and second sectors and often refers to the rest as the “third sector,” a term coined by Etzioni (1973). The more prevalent use of the term “third sector” arose out of the United States government’s Filer Commission in 1973–75 (Anheier and Seibel 1990, 7). Third-sector organizations are defined by their ownership structures, which preclude the distribution of profits to owners or governing members, known as the non-distribution constraint. The term third sector is sometimes used synonymously with the terms non-profit and voluntary sector. It is rooted in the “three failures theory” of the roles of such organizations (Powell and Steinberg 2006, 3).</p>
Venture philanthropy	<p>“Venture philanthropy begins with a ‘top-down’ approach to change, emphasizing big bets on novel and scalable solutions offered by bold entrepreneurs” (Letts, Ryan, and Grossman 1997 referenced in Meyerson and Wernick 2012, 92). “Venture philanthropists favour ‘big bets’ whereby a smaller number of organizations are provided with greater funds, as opposed to supporting a range of organizations, but providing fewer resources to individual groups.” They leverage “the potential for entrepreneurs and entrepreneurial solutions to address social problems” (Meyerson and Wernick 2012, 97-98).</p>
Voluntary failure	<p>Voluntary failure is the third failure in the three failures theories, the first and second being the market and the state. Salamon identified four reasons for voluntary failures: philanthropic insufficiency resulting from free-rider problems; philanthropic particularism, which arises from trying to address free-rider problems by focusing service provision on particular communities, such as religious or ethnic groups, leading to gaps in service and duplication; paternalism is the tendency of donors to treat the problem as</p>

	they see it, rather than how the recipient/customer does; and, amateurism refers to the tendency to have less qualified staff or to rely on volunteers (Steinberg 2006, 125; see Salamon 1987; Weisbrod, 1978).
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APPENDIX D – Legislation and Developments by Case

Table D-5. Capital gains tax exemptions and restrictions on foundations (1995–2016)

Date	Government	Legislation/Initiative	Policy
1995	Liberals	Bill C-262 (formerly Bill C-224)	Bryden's “transparency for overhead” for charities, a private member’s bill
1997	Liberals	Budget 1997	Capital gains tax on donations of listed securities reduced to 50% 5-year pilot
1997	Liberals	Budget 1997	75% annual income limit on all donations to all types of charities
1997	Liberals	Budget 1997	100% lifetime gift to Crown foundations decreased to 75%
1999	Liberals	Broadbent Report	Recommendations on charitable tax incentives and regulations
2000	Liberals	Fraser Institute Conference	Recommend elimination or reduction of all forms of capital gains tax
2001	Liberals	<i>Income Tax Act</i> Paragraph 38 (a.1)	Capital Gains Tax five-year trial made permanent (early)
2004	Liberals	Globe and Mail article	Call on the Government to eliminate capital gains on donations to 0%
2004	Liberals	2007 Federal Budget	Excess business holdings of private foundations: self-dealing
2005	Liberals	Bill s.33 (2005)	New rules for disbursement quota
2006	Conservatives	Bill C-13 <i>Budget Implementation Act</i>	Zero capital gains tax on publicly listed securities
2006	Conservatives	Bill C-33 <i>Income Tax Amendments Act</i>	New definition of charities and public foundation
2007	Conservatives	Bill C-10	Definitions of foundations updated
2007	Conservatives	2007 Federal Budget	Capital gains tax extended to private foundations

2009	Conservatives	Capital gains article	Review on impact of Capital Gains Tax exemption; private capital
2013	Conservatives	Standing Committee on Finance Report	<i>Tax Incentives for Charitable Giving in Canada</i> report
2014	Conservatives	MOU complete	CHVI partnership is not renewed, funding available until 2017
2015	Liberals	CGTE for private capital	Final report drafted
2016	Liberals	Private capital exemption not implemented	Final report released, partnership not renewed

Table D-6. PSE Crown foundation tax incentives and regulations

Date	Objective	Gov't	Legislation/Initiative	Policy
1984	Regulation	PC	Charities and the Canadian Tax System	Private and public foundations 4.5% disbursement rule (replaced MacEachern's 90% proposed rule)
1987	Incentives	PC	University Foundation Act, BC	First Crown foundation established for a public university in BC
1990	Institution	PC	CASE planned giving seminar	Presentation on benefits of establishing Crown foundations
1991	Incentives	PC	Universities Foundation Act, AB	Crown foundations for universities allowed
1992	Incentives	PC	An Act Respecting University Foundations	Crown foundations for universities allowed
1992	Institution	PC	CASE chapter established in Canada	10 members in 1992; 1300 members in 2016
1993	Incentives	PC	Manitoba Foundations Act	Crown foundations for universities allowed
1993	Incentives	PC	Higher Education Foundation Act, NB	Crown foundations for universities allowed
1993	Institution	PC	CAGP established	Handful of members in 1993; 1200 professionals in 2016
1993	Institution	PC	Article published on benefits of Crown vs. parallel foundations	Blake Bromley of the Benefic Group Inc.
1994	Incentives	Liberals	Annual Conference of the CAGP	Paper presented on benefits of establishing Crown foundations
1994	Incentives	Liberals	Crown Foundations for Saskatchewan Universities	Crown foundations for the U of S and the U of R were established
1994	Institution	Liberals	Planned Giving for Canadians	First issue of professional guidebook on planned giving published
1994	Institution	Liberals	CAGP conference	1st annual conference of the CAGP

1997	Incentives	Liberals	Budget 1997	75% annual income limit on all donations to all charities
1997	Regulation	Liberals	Budget 1997	100% lifetime gift to Crown foundations decreased to 75%
1997	Incentives	Liberals	<i>Income Tax Act</i> 149.1	Reduced taxable of donations to public foundation to 50%
1998	Incentives	Liberals	Legislation on Crown foundations in QC	Crown foundations for universities allowed

Table D-7. Organizational developments and the Gates Foundation in Canada

Date	Legislation/Initiative	Policy
2000	GHVE organization established	Prompted by the 2003 <i>Science</i> article, group of 24 experts
2003	Science article published	HIV/AIDS scientific community need for vaccine manufacturing capacity
2003	GHVE Scientific Strategic Plan	Published in 2005 in <i>PLoS Medicine</i>
2003-2004	ICID established	From federal-provincial taskforce
2006	MOU 2006 establishes the CHVI	CHVI Gates Foundation partnership with Government of Canada
2010-2011	MOU 2010	CHVI Gates Foundation partnership with Government of Canada
2014-2015	MOU completed	CHVI partnership is not renewed, funding available until 2017
2016	Final report drafted	CHVI outcomes reported publicly
2017	Gates partnership funding complete	Final report released, partnership not renewed

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